Journal of the Senate

Number 21 **Monday, May 30, 1988**

CALL TO ORDER

The Senate was called to order by the President at 2:00 p.m. A quorum present—39:

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Excused: Periodically, members of the Conference Committees on HB 1700 and CS for CS for SB 1192

PRAYER

The following prayer was offered by the Rev. John Boone, Pastor, Lakeview Baptist Church, Tallahassee:

I Timothy 2:1-3: "That first of all, supplications, prayers, intercessions and giving of thanks, be made for all men, for kings, and for all that are in authority, that we may lead a quiet and peaceful life, in all godliness and honesty."

Heavenly Father, I thank you for this state and these leaders. I pray for our Governor, the President of this Senate and for every one of these elected officials who serve here.

I pray that you will build a wall of protection around them and their families. I ask that you will give them wisdom and courage to uphold the laws of our state.

I ask that you would rebuke the enemy, Satan, from deceiving any of these lawmakers and causing them to make the wrong decisions.

O Lord, may these, our state leaders, cast down every law and policy which would weaken our families or our moral standards. I ask that they would recognize that all authority comes from you and not the voters, and that you have entrusted to them the responsibility for good government.

I base this prayer on your word, asking you to heal our land. In the name and through the blood of the Lord Jesus Christ, I pray. Amen.

PLEDGE

The Senate pledged allegiance to the flag of the United States of America.

Consideration of Resolution

On motion by Senator Woodson, by unanimous consent—

By Senator Woodson—

SR 1424—A resolution honoring Lt. George Brown, the first black Deputy Sheriff in the state.

WHEREAS, George Brown became the first bonded and certified black Deputy Sheriff in the state when he was employed in that capacity by Sheriff Tom Anderson of DeSoto County on January 15, 1945, and

WHEREAS, the October-November 1987 issue of the "Sheriff's Star" published by the Florida Sheriffs Association confirmed, after research, that Lt. George Brown is the first black employed as a Deputy Sheriff in the state, and

WHEREAS, DeSoto County Sheriff Joseph L. Varnadore discovered that the payroll records of the DeSoto County Sheriff's Department for 1945 establish that Lt. Brown was employed as a Deputy Sheriff in 1945, and

WHEREAS, Lt. Brown served DeSoto County and the state as a Deputy Sheriff for 38 years, during which time he earned the respect and admiration of the community, and

WHEREAS, in addition to his duties as Deputy Sheriff, he was active in his church and in civic organizations within the community, and

WHEREAS, upon his retirement from the DeSoto County Sheriff's Department in 1983, Lt. Brown received many awards from his church, the community, and the Sheriff's Department, and

WHEREAS, by such achievements, George Brown has inspired his children and grandchildren to pursue successful careers in law enforcement, education, and medicine, and

WHEREAS, it is appropriate that the Senate honor a public servant who represents an important part of the history of this state, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That this legislative body pause in its deliberations to honor and commend Lt. George Brown for his contribution to the history of this state and for his dedicated service to DeSoto County and the State of Florida.

BE IT FURTHER RESOLVED, that a copy of this resolution, with the seal of the Senate affixed, be presented to Lt. Brown as a tangible token of the respect and admiration of the Senate.

—was introduced out of order and read by title. On motion by Senator Woodson, SR 1424 was read the second time in full and unanimously adopted.

Senator Woodson introduced to the Senate Lt. Brown and his wife Ernestine who were seated in the chamber. At the request of the President, Senators Woodson, Meek and Girardeau escorted Lt. and Mrs. Brown to the rostrum where he was presented a copy of the resolution.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Monday, May 30, and Tuesday, May 31, 1988: HB 702, CS for SB 522, CS for SB 594, SB 827, SB 311, CS for SB 1308, SB 281, CS for HB 451, SB 524, SB 673, CS for SB 40, CS for CS for SB 904, SB 113, HB 173, HB 174, HB 177, HB 178, HB 179, HB 180, HB 181, SB 778, CS for SB 73, SB 203, SB 898, SB 922, CS for SB 1171, SB 1203, SB 704, CS for SB 931, SB 1075, CS for SB 747, CS for CS for SB 1221, CS for SB 11, CS for SB 86, CS for SB 274, CS for CS for SB 446, CS for CS for SB 557, SB 994, CS for HB 1015, CS for CS for SB 16, CS for SB 213, CS for SB 359, CS for SB 585, SB 1298, HJR 1610, CS for CS for SB's 42 and 49, CS for SB 484, SB 765, CS for SB 782, SB 1377, SB 607, SB 881, CS for SB 1051, SB 1139, CS for SB 1156, CS for SB 1193, CS for SB 1229, CS for CS for SB 45, CS for SB 286, CS for SB 411, CS for SB 810, SB 892, SB 1296, CS for SB 1302, CS for HB 600, CS for SB 711, CS for CS for SB 792, SB 955, SB 1195, CS for HB 559, HB 1159, HB 242, CS for SB 425, CS for SB 244

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Monday, May 30, 1988: SB 1381, SB 1409, SB 1419, SB 1420, SB 1421, SB 1423, SB 1426, SB 1427

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Appropriations recommends the following pass: CS for HB 1519 with 17 amendments, CS for SB 285 with 2 amendments, SB 333, CS for SB 377 with 2 amendments, CS for SB 628, CS for SB 749, SB 768, CS for SB 789 with 2 amendments, CS for SB 820, CS for SB 879 with 1 amendment, CS for CS for SB 916, SB 1018, CS for CS for SB 1056 with 1 amendment, CS for SB 1102 with 3 amendments, SB 1137, CS for SB 1205 with 8 amendments, CS for SB 1324, CS for SB 1326 with 8 amendments

The bills were placed on the calendar.

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 540

The bill with committee substitute attached was referred to the Committee on Appropriations under the original reference.

The Committee on Appropriations recommends a committee substitute for the following: CS for CS for SB 633

The bill with committee substitute attached was referred to the Committee on Rules and Calendar under the original reference.

The Committee on Appropriations recommends committee substitutes for the following: SB 91, SB 99, SB 335, CS for SB 527, CS for SB 534, CS for CS for SB 954, CS for SB 980, CS for SB 998

The Committee on Judiciary-Criminal recommends a committee substitute for the following: CS for SB 579

The Committee on Natural Resources and Conservation recommends a committee substitute for the following: SB 1169

The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.

REQUESTS FOR EXTENSION OF TIME

May 26, 1988

The Committee on Health and Rehabilitative Services requests an extension of 15 days for consideration of the following: Senate Bills 159, 246, 430, 440, 477, 518, 536, 554, 570, 597, 732, 738, 741, 775, 797, 800, 804, 813, 825, 851, 856, 911, 952, 961, 997, 1012, 1019, 1073, 1079, 1090, 1125, 1223, 1233, 1276, 1352, 1370; House Bills 113, 302, 614, 855, 1493, 1673

May 27, 1988

The Committee on Agriculture requests an extension of 15 days for consideration of the following: Senate Bills 756, 1162; House Bills 50, 648

The Committee on Commerce requests an extension of 15 days for consideration of the following: Senate Bills 20, 44, 55, 81, 142, 166, 177, 190, 365, 423, 426, 569, 584, 603, 620, 639, 650, 662, 705, 716, 723, 730, 745, 752, 763, 779, 835, 838, 853, 858, 862, 864, 889, 936, 946, 957, 969, 996, 1010, 1047, 1080, 1081, 1083, 1086, 1095, 1099, 1106, 1123, 1138, 1163, 1179, 1196, 1209, 1258, 1264, 1266, 1267, 1270, 1279, 1280, 1284, 1297, 1312, 1318; House Bills 91, 92, 119, 432, 464, 470, 484, 565, 632, 704, 819, 1033, 1462, 1607

The Committee on Corrections, Probation and Parole requests an extension of 15 days for consideration of the following: Senate Bills 92, 761, 970, 1159

The Committee on Economic, Community and Consumer Affairs requests an extension of 15 days for consideration of the following: Senate Bills 47, 191, 200, 202, 207, 236, 250, 300, 379, 405, 444, 449, 467, 469, 476, 496, 586, 588, 658, 668, 694, 700, 755, 815, 829, 842, 852, 913, 934, 939, 1023, 1069, 1161, 1210, 1216, 1273, 1278, 1316, 1319, 1331, 1336; House Bills 72, 84, 318, 557

The Committee on Education requests an extension of 15 days for consideration of the following: Senate Bills 67, 75, 94, 96, 100, 186, 192, 260, 321, 350, 355, 410, 413, 575, 611, 616, 623, 666, 692, 701, 754, 783, 788, 822, 885, 886, 887, 1013, 1062, 1085, 1112, 1118, 1122, 1184, 1198, 1213, 1283, 1285, 1292, 1294, 1295, 1304; House Bills 83, 135, 186, 247, 304, 597, 611, 749, 758, 908, 919, 1303, 1427, 1490

The Committee on Finance, Taxation and Claims requests an extension of 15 days for consideration of the following: Senate Bills 227, 385, 386, 429, 432, 515, 667, 707, 715, 726, 737, 742, 902, 943, 956, 967, 987, 1032, 1042, 1060, 1065, 1103, 1111, 1121, 1170, 1207, 1226, 1259, 1261, 1286, 1315, 1330, 1332, 1333, 1348, 1349, 1365, 1379, 1393; House Bills 488, 489, 490, 491, 492, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following: Senate Bills 1, 50, 161, 220, 434, 512, 695, 743, 873, 960, 963, 1003, 1037, 1063, 1096, 1097, 1126, 1133, 1155, 1157, 1172, 1256, 1272, 1311, 1350, 1360; House Bills 211, 254, 364, 512, 610, 701, 1020

The Committee on Judiciary-Civil requests an extension of 15 days for consideration of the following: Senate Bills 8, 29, 79, 151, 167, 169, 176, 195, 196, 206, 219, 228, 237, 257, 296, 303, 313, 345, 454, 486, 525, 542, 558, 577, 641, 674, 691, 708, 709, 717, 729, 733, 750, 751, 808, 899, 930, 965, 988, 993, 1017, 1036, 1066, 1067, 1094, 1142, 1143, 1160, 1194, 1197, 1224, 1245, 1248, 1265, 1277, 1334, 1346, 1374; House Bills 26, 86, 93, 154, 158, 223, 227, 274, 411, 416, 541, 542, 572, 636, 645, 959, 1049, 1488, 1590, 1608, 1609, 1631

The Committee on Judiciary-Criminal requests an extension of 15 days for consideration of the following: Senate Bills 22, 31, 175, 278, 287, 288, 305, 310, 325, 401, 406, 448, 474, 498, 564, 572, 579, 583, 613, 621, 635, 640, 653, 696, 795, 806, 817, 833, 1070, 1110, 1135, 1187, 1200, 1242, 1244, 1249, 1263, 1328; House Bills 102, 423, 555

The Committee on Natural Resources and Conservation requests an extension of 15 days for consideration of the following: Senate Bills 6, 62, 76, 126, 234, 271, 326, 337, 445, 466, 510, 533, 605, 636, 656, 712, 713, 735, 777, 781, 799, 855, 942, 989, 1008, 1015, 1059, 1061, 1116, 1165, 1175, 1228, 1240, 1241, 1300, 1322, 1325, 1361, 1369, 1378; House Bills 104, 171, 278, 646, 717, 778, 824, 963, 976, 1399, 1423, 1455, 1487, 1500, 1588

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 15 days for consideration of the following: Senate Bills 2, 15, 41, 187, 199, 351, 352, 422, 438, 473, 655, 693, 953, 1055, 1089, 1129, 1166, 1211, 1337, 1357; House Bills 148, 218, 239, 533, 900, 1320

The Committee on Rules and Calendar requests an extension of 15 days for consideration of the following: Senate Bills 21, 30, 216, 217, 223, 270, 275, 291, 324, 420, 531, 624, 819, 928, 1058, 1151, 1217, 1227, 1381, 1389, 1391, 1403, 1409, 1418, 1419; House Bills 290, 475, 1226, 1379, 1398, 1445, 1520

The Committee on Transportation requests an extension of 15 days for consideration of the following: Senate Bills 85, 125, 235, 301, 353, 632, 665, 676, 736, 805, 882, 985, 1004, 1024, 1120, 1214, 1237, 1238; House Bills 79, 187, 365, 507, 596, 940, 1165, 1380

The Special Master on Claims requests an extension of 15 days for consideration of the following: Senate Bills 107, 280, 506, 1027, 1199

INTRODUCTION AND REFERENCE OF BILLS

First Reading

By Senator Johnson—

SB 1420—A bill to be entitled An act relating to Tri-Par Estates Park and Recreation District in Sarasota County; amending s. 23 of ch. 78-618, Laws of Florida, as amended; exempting certain purchases, leases, conveyances, or other acquisitions of real or tangible personal property from the restrictions imposed by said section; providing for the approval of certain acquisitions by a majority of those voting in a special referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Johnson—

SB 1421—A bill to be entitled An act relating to the Tri-Par Estates Park and Recreation District in Sarasota County; amending section 5 of chapter 78-618, Laws of Florida, as amended; changing qualifications for electors in the district; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SB 1422 was introduced out of order and passed May 26.

By Senator Girardeau—

SB 1423—A bill to be entitled An act relating to Nassau County Hospital Board; amending section 9(3), chapter 21228, Laws of Florida, 1941, as amended; providing for a joint budget hearing; providing for amendment of the hospital board's budget request; providing for a levy sufficient to meet the hospital board's needs up to a maximum of 1.2 mills; authorizing the board of county commissioners of Nassau County to decrease the certified amount requested by the Nassau General Hospital proportionally if necessary to avoid a total millage in excess of 10 mills; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

SR 1424 was introduced out of order and adopted this day.

By Senators Ros-Lehtinen, Margolis, Plummer, Hill, Lehtinen and Meek—

SR 1425—A resolution commending Ambassador David M. Walters and the Children's Hospital Foundation for their contribution to the community of Miami.

—was referred to the Committee on Rules and Calendar.

By Senator Langley—

SB 1426—A bill to be entitled An act relating to the South Lake County Hospital District in Lake County; replacing the existing enabling legislation for the district with new provisions providing for the governance, jurisdiction, powers, franchises, and privileges of the district; revising provisions relating to members and officers of the South Lake County Hospital District Board of Trustees; expanding the powers of the district board of trustees; combining the maximum tax levy of 1 mill for operations and 1 mill for ambulance and hospital emergency room services into a total maximum tax levy of 2 mills for operations and ambulance and emergency room services; providing for levy of the taxes; exempting property of the district from assessments; eliminating advertising and bid requirements for construction, repairs, goods, and supplies and annual audit requirements; repealing ch. 69-1201, Laws of Florida, as amended, except for s. 14; repealing s. 14, ch. 69-1201, Laws of Florida, as amended, subject to referendum; providing severability; providing a referendum; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Vogt—

SB 1427—A bill to be entitled An act relating to Brevard County; amending section 7(1)(a) of chapter 87-423, Laws of Florida; providing for the additional court cost assessed by the circuit and county court against each person found guilty of a violation of a state criminal statute or municipal or county ordinance or traffic offense in Brevard County, to be used to fund the Brevard Police Testing and Certification Center at Brevard Community College; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Appropriations and Senator Brown—

CS for SB 91—A bill to be entitled An act relating to state lands; amending s. 253.023, F.S.; providing that projects may be removed from certain acquisition lists under certain conditions; amending ss. 253.025, 253.115, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund or any state agency to contract for appropriate real estate services in the acquisition and sale of state lands; amending s. 259.035, F.S.; changing the date for the yearly establishment of the Conservation and Recreation Lands acquisition list; revising provisions which limit the amount a state agency may offer for the purchase of land; specifying conditions under which such limits may be exceeded; providing limitations with respect to joint acquisitions by state agencies and local governments or other entities; providing an effective date.

By the Committee on Appropriations and Senator Grant—

CS for SB 99—A bill to be entitled An act relating to retired justices and judges assigned to temporary judicial duty; amending s. 25.073, F.S.; changing the rate of compensation of such justices and judges; providing an effective date.

By the Committee on Appropriations and Senators Crenshaw, D. Childers, Peterson, Thurman, Deratany, Margolis and Grant—

CS for SB 335—A bill to be entitled An act relating to the state lottery; amending s. 24.105, F.S.; prohibiting disclosure and authorizing disclosure of certain information relating to the lottery under specified circumstances; amending s. 24.108, F.S.; revising duties of the Division of Security of the Department of the Lottery; amending s. 24.111, F.S.; revising provisions which require certain vendors to post bond or deposit securities; authorizing filing of an irrevocable letter of credit; amending s. 24.112, F.S.; authorizing use of secretary's facsimile signature on contracts with retailers; amending s. 24.116, F.S.; revising provisions which prohibit certain persons associated with vendors from purchasing lottery tickets; removing a prohibition against retailers, employees thereof, and their relatives purchasing lottery tickets on the retailer's premises; providing limitations on imposition of criminal sanctions for violations of s. 24.116, F.S., committed prior to the effective date of the act; amending s. 24.120, F.S.; authorizing funds in the Administrative Trust Fund to be invested by the Treasurer in annuities issued by insurance companies under certain conditions; amending s. 18.10, F.S., relating to deposits and investment of state money, to conform; amending s. 3, ch. 88-8, Laws of Florida; revising provisions regarding access to lottery retailers for disabled persons; providing an effective date.

By the Committees on Appropriations; and Natural Resources and Conservation and Senators Grizzle and McPherson—

CS for CS for SB 527—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.02, F.S.; expanding the duties of the Division of Marine Resources; establishing the Florida Marine Research Institute within the division; providing powers of the institute; providing for the establishment of citizen support organizations to assist the department; specifying qualifications for such organizations; limiting the authority of the citizen support organization with respect to the receipt of funds; authorizing the department to permit such organizations to use property and facilities at the department, subject to certain conditions; requiring an annual audit; requiring the department to develop salary recommendations for institute personnel; providing an effective date.

By the Committees on Appropriations; and Health and Rehabilitative Services and Senator Myers—

CS for CS for SB 534—A bill to be entitled An act relating to public health; amending s. 154.01, F.S.; restating the purposes for the operation of county public health units; defining three levels of county public health unit services as environmental, communicable disease control, and primary care services; providing contracting provisions and requirements between the Department of Health and Rehabilitative Services and the counties; amending s. 154.011, F.S.; requiring counties to coordinate certain health care services with existing federal programs; amending s. 154.02, F.S.; modifying the provisions governing the Public Health Unit Trust Fund; specifying expenditure report requirements and providing timeframes for reporting; amending s. 154.04, F.S.; modifying provisions regarding public health unit personnel; requiring the employment of an environmental specialist; providing that public health unit personnel be employed by the Department of Health and Rehabilitative Services; amending s. 154.331, F.S.; providing for the creation of independent health care special districts upon voter approval; redesignating county indigent health care districts as county health care special districts; providing for assessment of certain ad valorem taxes within such district; providing for a governing board for a health care special district; providing board membership, duties, and terms of office; requiring the board to prepare and adopt a budget; providing a means to dissolve the district subject to certain limitations; requiring the board to comply with certain reporting and filing requirements; amending s. 409.266, F.S.; increasing the expenditure from the Public Medical Assistance Trust Fund to expand primary care programs; increasing the income level under which elderly and disabled persons may qualify for Medicaid services, in accordance with federal law; increasing the age level under which children may qualify for Medicaid benefits, in accordance with federal law; requiring a report by the Department of Health and Rehabilitative Ser-

vices to the President of the Senate and the Speaker of the House of Representatives; providing disproportionate share reimbursement to certain hospitals; creating s. 409.2673, F.S.; establishing a shared county and state health care program for specified low-income persons; providing for eligibility for the program; providing for funding the program; delineating state and county responsibility should the funds of either be depleted; requiring participating counties to maintain current health care efforts; providing for eligibility determination; specifying conditions for reimbursement to hospitals; providing for development and adoption of rules governing the program; creating the Shared County and State Program Trust Fund; creating shared county and state program trust funds in each county; providing an annual appropriation into the trust fund; reviving and readopting s. 409.266(7)(k), F.S., relating to the Medicaid medically needy program; providing an effective date.

By the Committee on Finance, Taxation and Claims and Senator Dudley—

CS for SB 540—A bill to be entitled An act relating to ad valorem taxation; amending s. 192.037, F.S.; providing additional procedures for assessing time-share property; providing additional "usual and reasonable fees and costs of the sale" for time-share property; providing for retroactive operation; providing an effective date.

By the Committees on Judiciary-Criminal; and Governmental Operations and Senator Johnson—

CS for CS for SB 579—A bill to be entitled An act relating to licenses to carry a concealed weapon or firearm; requiring the Department of State to review licensees' files for purposes of revocation; amending s. 790.001, F.S.; redefining the term "machine gun" and defining the term "sterile area" with respect to prohibiting the carrying of concealed weapons or firearms in certain areas; amending s. 790.052, F.S.; redefining the term "officer" for purposes of carrying firearms off-duty; amending s. 790.06, F.S.; providing that machine guns are not concealed weapons or firearms for purposes of licensure; changing eligibility criteria for licensing and revocation purposes; requiring the department to deny a license if the applicant has been found guilty of certain crimes; authorizing the department to revoke or suspend a license if the licensee is found guilty of certain crimes; requiring the department to suspend a license or processing of an application under certain circumstances; providing that a disqualification from licensure on account of certain offenses will expire after a term of years in specified circumstances; providing licensure procedures and qualifications for consular security officials of foreign governments; providing that a license does not authorize the licensee to carry a concealed weapon or firearm into certain premises; providing penalties; amending s. 790.33, F.S.; revising standards for adoption of waiting period ordinances by counties; providing for severability; providing an effective date.

By the Committees on Appropriations; Finance, Taxation and Claims; and Economic, Community and Consumer Affairs and Senator Myers—

CS for CS for CS for SB 633—A bill to be entitled An act relating to local governments; amending s. 11.45, F.S., relating to legislative audits; redefining the term "local governmental entity" for purposes of said section; requiring each special district issuing bonds in excess of a specified amount to obtain annual financial audits; providing for hearings by the Legislative Auditing Committee on the failure of local governmental entities to comply with the reporting requirements under said section; providing for actions that may be taken against such entities; providing for forwarding of the findings of an audit of a special district to the Division of Bond Finance of the Department of General Services if problems related to debt policy or practice are found; requiring that division to prepare a report on the matter for the Legislative Auditing Committee; requiring the Auditor General annually to provide lists of special districts that are in compliance and that are not in compliance with said section to the Office of Special District Information of the Department of Community Affairs; amending s. 20.18, F.S.; requiring the Department of Community Affairs to work with other state agencies to improve enforcement of special district reporting requirements and communication among state agencies receiving reports from special districts; amending s. 75.05, F.S., relating to the procedure for bond validation; providing for service of a copy of the complaint on the Division of Bond Finance of the Department of General Services if the issuer is an independent special district, as redefined; amending s. 100.011, F.S.; requiring all elections conducted by special districts to be conducted in accordance with specified general laws; prescribing general requirements for the conduct of elections by special districts; prescribing duties of supervisors of elections with respect thereto; providing for the conversion of certain special districts having governing board members elected on the basis of one vote for each one acre of land owned to a different method of electing board members; prescribing duties of the supervisors of elections with respect thereto; providing for composition of the governing boards, terms of members, filling of vacancies, landowners' meetings, qualification of candidates, and when elections will be held; amending s. 112.322, F.S.; requiring the Commission on Ethics to report the names of special district officers failing to comply with certain financial disclosure laws to the Office of Special District Information of the Department of Community Affairs; amending s. 112.665, F.S.; requiring the Division of Retirement of the Department of Administration to provide annual reports concerning special district participation in, and compliance with, local government and state-administered retirement system provisions; amending s. 121.021, F.S.; redefining the term "special district" for purposes of the Florida Retirement System Act; repealing s. 165.022(2), F.S., relating to the prohibition against special laws or general laws of local application pertaining to the creation of dependent or independent special districts under conditions, or subject to provisions, which conflict with those provided in ch. 165, F.S.; amending s. 165.031, F.S.; redefining the terms "special district," "dependent special district," and "independent special district" as used in that chapter; amending s. 165.041, F.S.; revising formation procedures for creation of special districts; amending s. 189.003, F.S.; redefining the terms "special district," "dependent special district," "independent special district," and "local governing authority" for purposes of ch. 189, F.S.; creating s. 189.0034, F.S.; providing a procedure for preparing the official list of special districts; requiring activities undertaken by a special district related to the provision of public facilities to be consistent with local government comprehensive plans; amending s. 189.005, F.S.; clarifying that a special meeting is other than a regular meeting; prohibiting the approval of an annual budget at an emergency meeting; amending s. 189.006, F.S.; allowing a local government or entity authorized to create an independent special district to submit a copy of the document creating the district, or of any amendment to such document to the Department of Community Affairs within specified time periods; requiring that department to make a determination respecting the status of the district as independent or dependent; requiring an independent special district to file a map of the district with the local general-purpose governing authority; amending s. 189.007, F.S.; providing for the effect of the failure of a special district to file its public facilities report with the general-purpose local government; creating s. 189.011, F.S.; establishing the Office of Special District Information of the Department of Community Affairs; prescribing its responsibilities with respect to the collection, maintenance, publication, dissemination, and distribution of certain information and reports pertaining to special districts; creating s. 189.021, F.S.; declaring state policy respecting coordination of planning between special districts and general-purpose local governments; requiring, after a specified date, a special district to have a public facilities report; providing exceptions; prescribing the contents and the terms of such a report; requiring the report to be submitted to each general-purpose local government in which the special district is located and allowing such governments to use the plan in the preparation or revision of their comprehensive plans; creating s. 189.051, F.S.; authorizing the Department of Community Affairs to adopt rules under ch. 189, F.S.; amending s. 190.011, F.S.; allowing community development districts to use a new non-ad valorem assessment collection method; amending s. 190.021, F.S.; allowing community development districts to use non-ad valorem assessments to fund certain activities; amending s. 197.102, F.S.; redefining the terms "tax certificate" and "tax notice" and defining the terms "ad valorem tax roll" and "non-ad valorem assessment roll"; amending s. 197.322, F.S.; providing for notice of ad valorem taxes and non-ad valorem assessments; amending s. 197.363, F.S.; revising provisions relating to the method of collection of special assessments and service charges; restricting the application of such provisions; creating s. 197.3631, F.S.; providing general requirements relating to non-ad valorem assessments; creating s. 197.3632, F.S.; providing a uniform method for the levy, collection, and enforcement of non-ad valorem assessments; creating s. 197.3635, F.S.; providing for the form of combined notice of ad valorem taxes and non-ad valorem assessments; amending s. 200.001, F.S.; redefining the terms "special district" and "dependent special district" and defining the term "independent special district"; amending s. 200.0684, F.S.; requiring the Division of Ad Valorem Tax of the Department of Revenue to submit an annual report to the Department of Community Affairs concerning compliance of special districts levying ad valorem taxes with ch. 200, F.S.; amending s. 215.84, F.S.; requiring the State Board of Administration to notify the Division of Bond Finance when it authorizes a governmental unit issuing bonds to charge a rate of

interest exceeding the maximum rate; requiring that division to use the notification to verify special district compliance with certain notice requirements relating to the issuance of bonds; amending s. 218.31, F.S.; redefining the terms "special district," "dependent special district," and "independent special district" for purposes of pt. I, ch. 218, F.S., relating to general financial provisions applicable to political subdivisions; amending s. 218.32, F.S.; providing for hearings by the Legislative Auditing Committee on the failure of units of local government to comply with specified financial reporting requirements; providing for actions that may be taken against such units of local government; requiring the annual financial report of a municipality or county to list dependent special districts within its jurisdiction; requiring the Department of Revenue to report certain information to the Governor, the Legislature, and the Office of Special District Information; amending s. 218.34, F.S.; deleting the authority of a local governing authority to approve the budget or tax levy of any special district located solely within its boundaries; deleting requirement that special districts certify compliance or noncompliance with s. 200.065, F.S., to the Department of Banking and Finance; deleting requirement that annual report of Department of Banking and Finance to Governor and Legislature include information related to certification with s. 200.065, F.S.; requiring state agencies administering funding programs to conduct certain oversight activities with respect to the use of such funds by special districts and to report certain information to the Office of Special District Information; amending s. 218.37, F.S.; requiring the Division of Bond Finance to report special districts that are not in compliance with certain bond issuance requirements to the Office of Special District Information; requiring the Division of Bond Finance to use a copy of a bond validation complaint to verify compliance of special districts with reporting requirements; amending s. 218.38, F.S.; providing for hearings by the Legislative Auditing Committee on the failure of units of local government to comply with such bond issuance requirements; providing for actions that may be taken against such districts; amending s. 218.503, F.S.; providing that any unit of local government or state agency may notify the Governor and the Legislative Auditing Committee of conditions indicating that a local government is in a state of financial emergency; exempting the ports listed in s. 403.021(9)(b), F.S., from the application of the act, except for specified reporting requirements; requiring a fee schedule to be established for the purpose of covering the costs of administering this act; prohibiting fees from exceeding $150 per district per year; creating the Special District Administrative Trust Fund; appropriating $175,000 to the Department of Community Affairs for fiscal year 1988-1989; providing effective dates.

By the Committees on Appropriations; Finance, Taxation and Claims; and Natural Resources and Conservation and Senator Malchon—

CS for CS for CS for SB 954—A bill to be entitled An act relating to hazardous materials; creating part II of chapter 252, F.S., the Florida Hazardous Materials Emergency Response and Community Right-to-Know Act; providing definitions; providing powers and duties of the Department of Community Affairs; providing for department support for the State Hazardous Materials Emergency Response Commission and the local emergency planning committees, as established pursuant to federal law; creating the Hazardous Materials Administration Trust Fund; providing for fees for certain registration, filing, and notification by owners or operators of facilities where hazardous materials are produced, used, or stored; providing for late fees; providing an exemption; providing civil and criminal penalties; providing for causes of action, penalties, and liabilities; providing reporting requirements; providing for submission of trade secrets; providing exemptions from public records law; providing certain confidentiality; providing for review and repeal; authorizing copying charges; limiting tort liability; providing for loan start-up costs; providing an effective date.

By the Committees on Appropriations and Transportation and Senators Jennings, Stuart, Vogt and Beard—

CS for CS for SB 980—A bill to be entitled An act relating to public transportation; creating the Magnetic Levitation Demonstration Project Act; providing a centrally coordinated permitting and planning process for the location, construction, operation, and maintenance of a magnetic levitation demonstration project within this state; providing legislative intent and findings; providing definitions; limiting the act to the certification of a single demonstration project; prohibiting the use of public funds except as provided; providing an application process; providing fees; authorizing the Department of Transportation to select one application for further review; providing procedures for protesting the selection, including the posting of a bond; requiring the Department of Transportation, in consultation with other agencies, to determine the completeness of an application; providing for amendments to an application; requiring specified state agencies and certain local governments, water management districts, and regional planning councils to prepare reports on the impact of a proposed project; authorizing the Division of Administrative Hearings of the Department of Administration to designate a hearing officer to conduct a certification hearing; providing notice requirements for such hearing; designating the parties to such hearing; authorizing the Governor and Cabinet to approve, approve with modifications or conditions, or disapprove an application for certification; providing for the effect of certification; providing eminent domain authority to the Department of Transportation; requiring notice to affected landowners; providing for modifications to the certification order; providing for revocation or suspension of certification; providing for the alteration of time limitations; authorizing the owner or operator of a transit station to establish rules governing the use of the station; providing for public access; authorizing the Department of Transportation to delegate its powers and responsibilities under the act to the Florida High Speed Rail Transportation Commission; providing that the act supersedes conflicting laws; exempting confidential business information from public records requirements; providing for future review of the public records exemption in accordance with s. 119.14, F.S.; authorizing local governments to assess reasonable fees with respect to the rail line; providing an effective date.

By the Committees on Appropriations and Education and Senators Peterson and D. Childers—

CS for CS for SB 998—A bill to be entitled An act relating to education; amending s. 228.061, F.S.; transferring, renumbering, and amending s. 228.0615, F.S.; providing that district school boards may administer prekindergarten early intervention programs; specifying requirements for district plans for such prekindergarten programs; providing for contracting with existing programs and provisions for before-school and after-school child care; providing for approval of plans; providing for funding; providing for annual reports by school districts; renaming the State Advisory Council on Early Childhood Education as the State Advisory Council on Prekindergarten Early Intervention Program; revising the composition of the council and its duties; requiring the council to conduct an ongoing evaluation of the program; revising the composition and duties of the district interagency coordinating councils; amending s. 228.0617, F.S.; requiring proposals for school-age child care programs to include staff training plans, coordination with other community-based programs and social services, and a description of employment of students from work experience and vocational programs and otherwise revising the specifications for proposals; revising the funding priority given to proposals; deleting obsolete provisions; permitting an increase in membership on the school-age child care advisory council; amending s. 232.01, F.S.; requiring admission of 3-year-old handicapped children to public special education programs and permitting attendance by handicapped children below age 3; amending s. 232.03, F.S.; requiring evidence of a child's age before admission to prekindergarten; amending s. 232.045, F.S.; conforming a cross-reference; amending s. 234.01, F.S; requiring school boards to provide transportation for prekindergarten students; amending s. 236.013, F.S.; redefining the term "full-time equivalent student" in order to include students in prekindergarten early intervention programs; amending s. 236.083, F.S.; providing a method for allocating school district transportation funds for prekindergarten students; providing an effective date.

By the Committee on Natural Resources and Conservation and Senator Thurman—

CS for SB 1169—A bill to be entitled An act relating to fishing; creating the Florida Right to Fish Act; providing legislative findings and purpose; providing definitions; providing for the legal protection of certain commercial fisheries operations; providing for the impact of local ordinances; prohibiting expansion under certain circumstances; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Kiser, by two-thirds vote CS for CS for SB 161 was withdrawn from the Committee on Governmental Operations.

On motions by Senator Barron, by two-thirds vote HJR 290 was withdrawn from the Committee on Rules and Calendar and by two-thirds vote placed first on the special order calendar for May 31 followed by CS for CS for SB 161, CS for CS for SB 579 and CS for HB 1519.

Senator Barron moved that bills on the local calendar be considered this day at 4:00 p.m. The motion was adopted.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State CS for SB 606 and SB 1077, which he approved on May 26, 1988.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 16, CS for CS for HB 444, HB 957, CS for HB 1048, House Bills 1463, 1664; has passed as amended CS for HB 40, CS for CS for HB 118, HB 228, CS for HB 493, House Bills 734, 748, 780, CS for HB 885, House Bills 917, 1014, CS for HB 1043, CS for HB 1125, HB 1171, CS for HB's 1216, 1188, 552, 882 and 883, CS for HB 1277, HB 1283, CS for HB 1288, House Bills 1302, 1338, HCR 1402, House Bills 1409, 1454, 1504, CS for CS for HB 1571, House Bills 1632, 1661, 1682, 1683, 1717 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Natural Resources and Representative Dunbar and others—

CS for HB 16—A bill to be entitled An act relating to artificial fishing reefs; amending s. 370.25, F.S.; providing that the artificial fishing reef program within the Department of Natural Resources shall establish statewide criteria and guidelines with respect to the construction and maintenance of such reefs; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By the Committees on Appropriations and Higher Education and Representative Bell and others—

CS for CS for HB 444—A bill to be entitled An act relating to postsecondary and vocational education; amending s. 240.147, F.S.; requiring review by the Postsecondary Education Planning Commission of certain programs, grants, and contracts with independent institutions; amending s. 240.404, F.S.; revising conditions for student eligibility for state financial aid; providing a penalty; amending s. 240.409, F.S.; revising conditions for eligibility for state student assistance grants; revising amount of grants; revising payment and refund provisions; creating a trust fund; creating s. 240.4095, F.S.; establishing the Florida Student Assistance Grant Fund; providing eligibility for grants; providing amount of grants; providing for priority in the awarding of grants; providing for transfers; providing for payment and refund; requiring an audit and report; creating a trust fund; creating s. 240.4097, F.S.; establishing the Florida Postsecondary Student Assistance Grant Fund; providing eligibility for grants; providing amount of grants; providing for priority in the awarding of grants; providing for transfers; providing for payment and refund; requiring an audit and report; creating a trust fund; creating s. 240.4098, F.S.; establishing the Vocational Student Assistance Grant Fund; providing eligibility for grants; providing amount of grants; providing for priority in the awarding of grants; providing for transfers; providing for payment and refund; requiring an audit and report; creating a trust fund; creating s. 240.4099, F.S.; providing for specific appropriations categories in accordance with ss. 240.409, 240.4095, 240.4097, and 240.4098, F.S.; amending and renumbering s. 240.401, F.S., relating to state tuition vouchers; revising conditions for eligibility; revising the amount of vouchers; amending ss. 240.4068, 240.414, and 240.437, F.S.; correcting cross-references; creating s. 240.609, F.S.; establishing the Florida Postsecondary Endowment Grants Trust Fund; providing for moneys to remain in the trust fund; providing eligibility for matching endowment grants; specifying matching provisions and providing restrictions; providing for certification of contributions; providing for use of funds; amending s. 240.2605, F.S.; revising basis for allocation to universities of moneys in the Trust Fund for Major Gifts; providing for moneys to remain in the trust fund; amending s. 240.257, F.S.; revising basis for allocation to universities of moneys in the Trust Fund for Eminent Scholars; providing for moneys to remain in the trust fund; providing for rules; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Burke—

HB 957—A bill to be entitled An act relating to deferred-payment purchases made by community colleges; amending ss. 240.319, 287.064, F.S.; creating an option for a community college to have its deferred-payment purchases consolidated under master equipment financing agreements executed by the Division of Bond Finance; providing an effective date.

(Substituted for SB 203 on the special order calendar this day.)

By the Committee on Regulatory Reform and Representative D. L. Jones—

CS for HB 1048—A bill to be entitled An act relating to regulation of professions; amending s. 455.225, F.S., relating to disciplinary proceedings; providing conditions for investigation of anonymous complaints; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Transportation and Representative Burnsed—

HB 1463—A bill to be entitled An act relating to the Florida Transportation Code; amending s. 334.03, F.S.; redefining the term "State Highway System"; amending s. 335.04, F.S.; providing clarifying language with respect to the functional classification of roads and the designation of state and local responsibilities; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Finance and Taxation and Representative Simon—

HB 1664—A bill to be entitled An act relating to corporate income tax; amending s. 220.03, F.S.; revising the definition of "Internal Revenue Code" under the Florida Income Tax Code; amending s. 220.11, F.S.; revising provisions relating to determination of tax applicable to certain taxpayers; amending s. 220.62, F.S.; revising the definition of "bank" under said code; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By the Committee on Transportation and Representatives Reddick and Cosgrove—

CS for HB 40—A bill to be entitled An act relating to exemptions from the payment of tolls; providing a short title; amending s. 338.155, F.S.; exempting state military personnel and certain handicapped persons from payment of tolls on bridges, ferries, and toll facilities; repealing s. 347.19, F.S., relating to exemption of militia and clergymen from payment of tolls; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By the Committees on Appropriations and Natural Resources and Representative Lombard and others—

CS for CS for HB 118—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S.; defining the terms "sand beach," "coastal barrier island ends," and "coastal barrier islands"; providing restrictions on setting coastal construction control lines on coastal barrier island ends; amending s. 161.58, F.S.; relating to vehicular traffic on coastal beaches; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By Representative Martin and others—

HB 228—A bill to be entitled An act relating to the naming of public buildings; naming the Department of Education building in Tallahassee the "Ralph D. Turlington Education Building"; providing legislative intent; naming the educational facility at Cedar Key the "Gene Hodges High School"; directing the Levy County Board of Public Instruction to erect suitable markers; providing an effective date.

—was referred to the Committees on Education; and Rules and Calendar.

By the Committee on Community Affairs and Representative Hodges—

CS for HB 493—A bill to be entitled An act relating to county officers; amending s. 129.03, F.S., clarifying the requirement for certain tax collectors to submit their budgets to the board of county commissioners; amending s. 145.022, F.S.; prescribing applicability and duration of resolutions of boards of county commissioners which guarantee and appropriate salaries to certain county officials; authorizing boards of county commissioners to rescind such resolutions under certain conditions; amending s. 195.087, F.S.; requiring tax collectors to submit their budgets to the Department of Revenue for approval; providing exceptions; repealing certain special acts and general acts of local application; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By Representative B. L. Johnson—

HB 734—A bill to be entitled An act relating to community colleges; amending s. 240.35, F.S.; providing authority for district boards of trustees to establish a fee for capital improvements as provided in the General Appropriations Act; providing for expenditure of such fee; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Gordon and others—

HB 748—A bill to be entitled An act relating to battery; creating s. 784.046, F.S.; providing for the issuance of restraining orders, without the necessity of legal representation, in cases where acts of repeat violence are alleged; providing definitions; providing duties of the clerk of court; providing for waiver of fees for indigents; providing a form for petition for injunction; providing for service of process; providing for ex parte temporary injunction; providing for injunctive relief of 1 year; providing for extension of such relief; providing for dissemination and verification of injunction; providing for enforcement through contempt proceedings and imposition of fine; providing for arrest for violation of injunction; providing for modification or dissolution of injunction; amending s. 901.15, F.S.; authorizing warrantless arrest by law enforcement officer for violation of repeat violence injunction; amending s. 784.045, F.S.; providing that battery upon a victim who was pregnant shall constitute aggravated battery; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Judiciary-Civil.

By the Committee on Regulatory Reform and Representative Kelly—

HB 780—A bill to be entitled An act relating to landscape architecture; amending s. 481.301, F.S.; modifying purpose; amending s. 481.303, F.S.; modifying a definition; amending s. 481.305, F.S., relating to the Board of Landscape Architecture; deleting obsolete language; deleting annual report requirements; amending s. 481.306, F.S., revising rulemaking authority; amending s. 481.307, F.S.; expanding rulemaking authority relating to fees; providing a schedule of fees; amending ss. 481.309 and 481.311, F.S.; revising and clarifying certain examination and licensing requirements; creating s. 481.310, F.S.; requiring certain practical experience prior to licensure; amending s. 481.315, F.S.; revising requirements for license reactivation; amending s. 481.317, F.S.; revising requirements for temporary certification; amending s. 481.319, F.S.; deleting certain requirements relating to the practice of landscape architecture by a corporation or partnership; amending s. 481.321, F.S.; providing for use of a seal by registered landscape architects; requiring use of certificate numbers in advertising; amending s. 481.323, F.S.; providing a prohibition on the use of certain terms; amending s. 481.325, F.S.; modifying and providing additional grounds for disciplinary actions; amending s. 481.329, F.S.; revising an exemption for employees of state or local governments who perform landscape architectural services; requiring licensure under certain circumstances; repealing s. 481.331, F.S., relating to construction of statutes; creating a committee to delineate the conditions or circumstances under which landscape architects may submit permits for the design of stormwater management systems; saving part II of chapter 481, F.S., from Sunset repeal; providing for future review and repeal; providing effective dates.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Education, K-12 and Representative Sansom—

CS for HB 885—A bill to be entitled An act relating to education; amending s. 228.195, F.S.; requiring district school boards to establish school breakfast programs; providing requirements; amending s. 231.17, F.S.; revising requirements for teacher certification; providing for endorsements on teaching certificates; delaying the effective date of specified requirements pertaining to teacher certification; revising certification requirements for vocational teachers; providing for the extension of temporary certificates; creating s. 231.174, F.S.; providing for an alternate preparation program for school teachers; providing for the creation of regional programs and specifying requirements thereof; providing a procedure for funding; authorizing the charging of fees; authorizing school districts to operate alternate preparation programs; requiring evaluation and reporting of program effectiveness; amending s. 231.24, F.S.; authorizing active status certificates for administrators; repealing s. 231.172, F.S., relating to alternate certification programs for secondary school teachers; providing for written notification to certain students of new course requirements; amending s. 229.59, F.S.; expanding areas to be addressed by educational improvement projects and deleting a restriction on the amount of grant funds; providing for dissemination and assessment; creating the Education in the Sunshine Act of 1988; amending s. 229.551, F.S., relating to educational management; requiring the Commissioner of Education to prepare a report; amending s. 229.565, F.S., relating to educational evaluation; requiring the commissioner to submit reports; revising an evaluation requirement; amending s. 229.57, F.S., relating to the student assessment testing program; clarifying language; requiring an analysis of assessment results; amending s. 229.575, F.S., relating to reporting procedures; revising reporting requirements and contents of reports; providing for distribution of summary documents; amending s. 229.58, F.S.; requiring the establishment of school advisory committees and authorizing the establishment of district advisory committees; encouraging local representatives from the Department of Health and Rehabilitative Services to serve on school advisory committees; amending s. 237.34, F.S., relating to cost accounting and reporting; correcting cross-references; providing an additional use of data; requiring a report by the commissioner; amending s. 235.212, F.S.; requiring justification developed with a value analysis for low-energy use design of certain student-occupied facilities; amending s. 235.435, F.S.; authorizing the use of state school construction funds to renovate and remodel schools designated as historic educational facilities; providing criteria for such designation; amending s. 230.2316, F.S., relating to dropout prevention; revising criteria for participation in educational alternatives programs; amending s. 236.24, F.S.; revising provisions relating to the investment of district school funds; providing for the investment of surplus funds in specified investments by resolution of a school board; providing procedures; providing a definition; amending s. 159.416, F.S., relating to pool financing programs; providing for the investment of bond proceeds in school board investments; amending s. 230.23, F.S.; providing guidelines for the school boards to invest a portion of investment funds with certain minority institutions; amending s. 228.041, F.S.; revising the definition of vocational education; amending ss. 232.246 and 236.081, F.S.; correcting cross-references; amending s. 236.081, F.S.; renaming an existing program and adding new programs under a new program category of the Florida Education Finance Program; adding new programs as basic education programs; revising procedures relating to the allocation of full-time equivalents and the annual allocation calculation in the Florida Education Finance Program; providing for college credit for summer inservice institute participants; creating s. 236.135, F.S.; providing that appropriations to the Department of Education for certain purchases of electronic data processing equipment or software by school districts, community colleges, and the Board of Regents are subject to approval by the Commissioner of Education; creating s. 236.145, F.S.; providing for reimbursement to school districts for costs of residential nonpublic school contracts and providing conditions, eligibility, and funding with respect thereto; amending s. 235.014, F.S.; requiring the Office of Educational Facilities of the Department of Education to provide technical assistance to boards, including the Board of Regents, relating to commodities and products; amending s. 235.34, F.S.; providing that permits and development orders for educational plants and facilities shall not be made conditional upon the provision of certain improvements; creating the Florida Professional Educator Act of 1988; creating s. 11.077, F.S.; providing requirements with respect to legislation affecting education reporting and other paperwork; amending s. 231.55, F.S.; revising legislative intent provisions relating to teaching as a profession; amending s. 228.041, F.S.; revising the definition of the term "instructional personnel"; defining the terms "school-based management" and "collegial decisionmaking";

amending s. 229.555, F.S.; authorizing activities relating to school-based management; providing additional responsibilities of the Commissioner of Education relating to the comprehensive management information system; revising a reporting requirement; amending s. 230.23, F.S.; revising provisions relating to appointment of teacher aides; amending s. 230.33, F.S.; providing for consideration of the advice of teachers in certain plans; amending s. 231.39, F.S.; encouraging school boards to grant professional leave for teachers; amending s. 231.087, F.S.; providing additional duties of the Florida Council on Educational Management relating to school-based management; amending s. 231.603, F.S.; providing an additional evaluation standard for teacher education centers; expanding inservice teacher education center programs; amending s. 236.081, F.S.; revising the inservice educational personnel training expenditure; providing for an additional expenditure of such funds; amending s. 236.0811, F.S.; providing for inclusion of certain information in each school district's plan for inservice educational training; amending s. 235.26, F.S.; requiring standards, as a part of the Uniform Building Code, for provision of a professional teaching environment; amending s. 231.546, F.S.; requiring the Education Standards Commission to conduct a study on the professionalization of teaching; creating s. 236.095, F.S.; providing for an appropriation for school instructional enhancement; providing for use of funds; repealing s. 244.07, F.S., relating to the Florida Education Council; creating s. 229.6058, F.S.; establishing the Jose Marti Scholarship Foundation; providing for powers and duties; establishing the "Ronald E. McNair Memorial Scholarship Program"; providing for eligibility criteria; providing for administration by the Department of Education; providing for a trust fund; specifying a maximum amount for each annual award; requiring unused award moneys to be returned to the trust fund; providing effective dates.

—was referred to the Committees on Education and Appropriations.

By Representative Wallace—

HB 917—A bill to be entitled An act relating to contracts in restraint of trade; amending s. 542.33, F.S.; providing that certain contracts that restrain a person from exercising a lawful profession, trade, or business are valid; removing a provision that declares certain such contracts to be void; providing that certain agreements in restraint of trade entered into by licensees of the use of service marks are exceptions to the prohibition of contracts in restraint of trade; providing an effective date.

—was referred to the Committee on Commerce.

By Representatives Bell and Kelly—

HB 1014—A bill to be entitled An act relating to "ecostructure"; amending s. 212.235, F.S., providing for the deposit of proceeds from lottery bonds to the State Infrastructure Fund; providing a definition; providing for transfer of moneys from the State Infrastructure Fund to the Surface Water Improvement and Management Trust Fund and the Conservation and Recreation Lands Trust Fund for ecostructure expenditures; providing that title to certain lands purchased pursuant to the act shall be held by the Board of Trustees of the Internal Improvement Trust Fund; amending s. 215.32, F.S., to conform; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.

By the Committee on Commerce and Representative Burke and others—

CS for HB 1043—A bill to be entitled An act relating to banking; creating the International Banking and Trade Study Commission; providing for appointment of members; providing for reimbursement of expenses; providing for termination of the commission; providing for administrative support of the Department of Banking and Finance; providing duties of the commission; requiring reports to the Governor and Legislature; amending s. 663.06, F.S.; authorizing the department to extend the period for which an international banking corporation license to operate an international bank agency, representative office, or administrative office is valid; requiring annual financial statements and fees; providing for termination of operations and surrender of license; amending s. 658.295(2); providing for repeal of the International Banking Act prohibition; providing an effective date.

—was referred to the Committees on Commerce and Rules and Calendar.

By the Committee on Regulatory Reform and Representatives Mackenzie and Lewis—

CS for HB 1125—A bill to be entitled An act relating to the regulation of yacht brokers and salesmen by the Department of Business Regulation; providing definitions; providing for the administration of brokers' and salesmen's licenses; prescribing qualifications for issuance of a license; prohibiting unlicensed persons from acting as brokers or salesmen; providing exceptions; providing for license fees; providing for the denial, revocation, or suspension of licenses; requiring surety bonds; providing for the handling and disposition of funds received by licensees; providing for the adoption of rules; providing for review and repeal; providing an appropriation; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Commerce; Finance, Taxation and Claims; and Appropriations.

By Representative Nergard and others—

HB 1171—A bill to be entitled An act relating to the St. Lucie County Expressway Authority; amending s. 348.944, F.S.; allowing bond sales to be negotiated; providing an effective date.

—was referred to the Committees on Transportation, Governmental Operations and Appropriations.

By the Committee on Insurance and Representative Simon and others—

CS for HB's 1216, 1188, 552, 882, and 883—A bill to be entitled An act relating to motor vehicle liability insurance; creating the "Motor Vehicle Insurance Reform Act of 1988"; amending s. 324.072, providing increased financial responsibility requirements for persons convicted of violations relating to driving under the influence; amending s. 316.066, F.S.; requiring law enforcement officers to file accident reports in certain circumstances; providing that a written report includes a report generated through information technology resources; amending s. 316.646, F.S.; prescribing conditions for suspension of a person's driver's license and registration; providing for reinstatement; amending s. 320.02, F.S.; providing for audit of affidavits to determine if any are false; amending s. 324.021, F.S.; increasing the amount of property damage insurance which must be maintained; providing an alternative; clarifying applicability of insurance requirements to owner/lessors; creating s. 324.022, F.S.; providing for financial responsibility for bodily injury and property damage; amending s. 324.051, F.S.; revising language with respect to suspension of a driver's license for failure to maintain required security; amending ss. 324.061, 324.071, and 324.191, F.S.; correcting cross references in conformance to the act; revising language with respect to reinstatement; amending ss. 324.121 and 324.131, F.S.; deleting the requirement of mandating security for 3 years under certain circumstances; amending s. 324.201, F.S.; providing for the seizure of motor vehicle license plates under certain circumstances; providing that certain information available to the Department of Highway Safety and Motor Vehicles shall also be available to local law enforcement agencies; amending s. 324.221, F.S.; providing additional penalties for certain violations; amending s. 324.151, F.S.; revising language relating to a deductible for property damage coverage; repealing s. 324.251, F.S.; deleting the short title of the "Financial Responsibility Law of 1955"; amending s. 626.9541, F.S.; redefining the acts which constitute the unlawful imposition of additional premiums; amending s. 627.0651, F.S.; revising requirements for filing of rates; providing for return of premiums with respect to certain rates which are excessive, inadequate or unfairly discriminatory; providing for public hearings; amending s. 627.727, F.S.; requiring insurers to offer certain uninsured motorist coverage; creating s. 627.7275, F.S.; requiring motor vehicle insurance policies to contain certain liability coverage; creating s. 627.7295, F.S.; providing for motor vehicle insurance contracts; amending s. 627.732, F.S.; redefining the term "motor vehicle"; amending s. 627.733, F.S.; providing for reinstatement of a driver's license or registration which has been suspended for failure to maintain required security; providing for an exemption from certain required security requirements with respect to certain owners or operators of motorcycles; amending s. 627.736, F.S.; prohibiting insurers from requiring certain purchases of liability insurance; providing for the location of mental or physical examinations of injured persons; requiring insurers to report renewals, nonrenewals, and cancellations of policies providing personal injury protection; amending s. 627.739, F.S.; reducing maximum allowable deductibles for personal injury protection; amending s. 627.841, F.S.; changing the delinquent fee for premium finance agreements;

amending s. 817.234, F.S.; prohibiting certain solicitations by attorneys; amending s. 624.155, F.S.; providing certain immunity to insurers for releasing certain information to law enforcement agencies; amending s. 627.736, F.S.; revising language with respect to charges for treatment of injured persons under personal injury protection benefits; creating the Study Commission on Affordability and Availability of Motor Vehicle Insurance; providing for membership, expenses, powers, and duties; providing for a report; providing for the dissolution of the commission; requiring proof of personal injury protection insurance coverage under certain circumstances; providing applicability; providing effective dates.

—was referred to the Committees on Commerce, Transportation and Appropriations.

By the Committee on Natural Resources and Representative Troxler—

CS for HB 1277—A bill to be entitled An act relating to saltwater fisheries and shrimp fishing; amending s. 370.15, F.S.; providing for noncommercial trawl or net registration with respect to shrimp fishing; providing for noncommercial trawl or net size; amending s. 370.07, F.S.; revising reporting requirements; providing for possession limit; amending s. 370.153, F.S.; revising language with respect to dead shrimp production in certain counties to provide for the inheritance or transfer of a license to an immediate family member; amending s. 370.01, F.S.; providing for the regulation of nonliving sponges; amending s. 370.021, F.S.; providing for penalties; providing legislative intent; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By Representative Souto—

HB 1283—A bill to be entitled An act relating to capital felonies; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By the Committee on Commerce and Representative Silver—

CS for HB 1288—A bill to be entitled An act relating to workers' compensation; amending s. 440.11, F.S., extending employer's immunity from liability for injury or death to apply to certain persons under certain circumstances; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Troxler—

HB 1302—A bill to be entitled An act relating to road designation; designating and naming the section of State Road 13 from Sunbeam Road south to Julington Creek in Duval County as the Mandarin Parkway; providing for appropriate markers to be erected by the Department of Transportation; relating to bridge designation; designating the bridge over the Suwannee River at Fanning Springs in Dixie and Gilchrist Counties as the Joe H. Anderson, Sr., Bridge; providing an effective date.

—was referred to the Committee on Transportation.

By Representatives Young and Cosgrove—

HB 1338—A bill to be entitled An act relating to contraband forfeiture; amending s. 932.704, F.S.; providing that proceeds in special law enforcement trust fund may be used for drug treatment programs within detention facilities; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Representative Hanson—

HCR 1402—A concurrent resolution requesting the Governor to proclaim May 25, 1988, as Missing Children's Day.

—was referred to the Committee on Rules and Calendar.

By the Committee on Regulated Industries and Licensing and Representative Meffert—

HB 1409—A bill to be entitled An act relating to the state lottery; amending s. 24.105, F.S.; prohibiting disclosure and authorizing disclosure of certain information relating to the lottery under specified circumstances; amending s. 24.108, F.S.; revising duties of the Division of Security of the Department of the Lottery; amending s. 24.111, F.S.; revising provisions which require certain vendors to post bond or deposit securities; authorizing filing of an irrevocable letter of credit; amending s. 24.112, F.S.; authorizing use of secretary's facsimile signature on contracts with retailers; revising provisions regarding access to lottery retailers for disabled persons; amending s. 24.116, F.S.; revising provisions which prohibit certain persons associated with vendors from purchasing lottery tickets; removing a prohibition against retailers, employees thereof, and their relatives purchasing lottery tickets on the retailer's premises; providing limitations on imposition of criminal sanctions for violations of s. 24.116, F.S., committed prior to the effective date of the act; amending s. 24.120, F.S.; authorizing funds in the Administrative Trust Fund to be invested by the Treasurer in annuities issued by insurance companies under certain conditions; amending s. 18.10, F.S. to conform; providing an effective date.

—was referred to the Committees on Commerce; Rules and Calendar; and Appropriations.

By the Committee on Housing and Representative Jamerson and others—

HB 1454—A bill to be entitled An act relating to housing; amending s. 212.235, F.S.; adding the financing of affordable housing to the list of purposes for which infrastructure funds may be expended; creating part I of chapter 420, F.S.; the "State Housing Incentive Partnership Act of 1988"; providing legislative findings; providing policy and purpose; providing definitions; creating the State Housing Trust Fund; amending s. 380.0666, F.S.; correcting a reference; amending s. 420.502, F.S.; providing additional legislative findings under the Florida Housing Finance Agency Act; amending s. 420.503, F.S.; providing definitions; amending s. 420.504, F.S.; revising membership of the Florida Housing Finance Agency; amending s. 420.507, F.S.; providing additional powers of the Florida Housing Finance Agency; creating s. 420.5087, F.S.; creating the State Apartment Incentive Loan Program; providing requirements and procedures for loans; creating the State Apartment Incentive Loan Trust Fund; providing for foreclosure upon default; providing for acquisition and sale of property; creating s. 420.5088, F.S.; creating the Florida Homeownership Assistance Program; providing requirements for loans; creating the Florida Homeownership Assistance Trust Fund; amending s. 420.511, F.S.; providing additional requirements for the annual report of the agency; amending s. 420.604, F.S.; deleting a provision that the Florida Affordable Housing Demonstration Program be a 2"year pilot program; providing an additional criterion for inclusion of demonstration areas in the demonstration project; amending s. 420.605, F.S.; providing loan preference to community development corporations and community"based organizations; establishing a pilot program for housing cooperatives; creating ss. 420.303"420.33, F.S., the Housing Predevelopment Assistance Act; providing legislative findings and purpose; providing definitions; establishing the Housing Predevelopment Trust Fund; authorizing loans and grants and specifying eligible activities; providing for repayment of loans; providing for security; providing application procedure; providing for rules and annual reports; providing for foreclosure or other action upon default; providing for acquisition and sale of property; providing for disposition of undeveloped land; providing applicability; amending s. 420.608, F.S.; expanding the inventory of publicly owned lands and buildings established for the purpose of identifying lands and buildings suitable for housing; providing duties of the Department of Community Affairs; amending s. 420.609, F.S.; revising membership of the Affordable Housing Study Commission; extending the commission and revising its duties; creating s. 420.4255, F.S.; creating a Neighborhood Housing Services Grant Fund; creating s. 410.504, F.S.; providing for responsibilities of the Board of Regents regarding establishment of multidisciplinary centers on elderly living environments; requiring annual reports; creating part IX of chapter 420, F.S.; creating the "Maintenance of Housing for the Elderly Act of 1988"; providing legislative findings; providing intent; providing definitions; creating the Maintenance of Housing for the Elderly Trust Fund; creating the Maintenance of Housing for the Elderly Program; providing for loans; providing powers and duties of the department; amending s. 420.606, F.S.; providing a Training and Technical Assistance Program; establishing the Multidisciplinary Center for Affordable Housing; transferring s. 420.011, F.S., to part II of chapter 420, F.S., and renumbering as s. 420.102, F.S.; providing legislative findings; providing purpose; providing definitions; creating the Pocket of Poverty Trust Fund; providing for the pocket of poverty program in the community of Immokalee; providing legislative findings and intent, program creation and administration, pilot community description, local comprehensive farmworker housing plan, review of plans,

application procedure, and accountability; providing for the future review and repeal of s. 420.609, F.S., relating to the Affordable Housing Study Commission; amending s. 36 of ch. 86"192, Laws of Florida, to change the date of the future review and repeal of s. 31 of such act, relating to an advisory group on housing for the elderly; repealing s. 34 of Chapter 86"192, Laws of Florida, to delete reference to the multi"disciplinary center on elderly living environments; repealing s. 20.18(5), F.S., relating to the Florida Housing Advisory Council; repealing ss. 420.001 and 420.005, F.S., relating to the Florida Housing Act of 1972; repealing ss. 420.40"420.417, F.S., relating to the "Farmworker Housing Assistance Act"; repealing s. 420.607, F.S., relating to the community"based organization loan program; repealing ss. 420.701"420.713, F.S., relating to the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986"; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By the Committee on Governmental Operations and Representative Hodges—

HB 1504—A bill to be entitled An act relating to public procurement; amending s. 119.07, F.S., modifying an exemption for sealed bids or proposals received; exempting subscriber records supplied by telecommunications companies to governmental agencies; amending s. 120.53, F.S., providing notice requirements for exceptional purchase decisions of the Division of Purchasing of the Department of General Services; amending s. 216.136, F.S., requiring the Economic Estimating Conference to project the financial condition of the employee group health self-insurance plan; amending s. 216.164, F.S., requiring that proposed changes in benefits provided under the state group health self-insurance plan include a statement on the impact on plan premiums; amending s. 216.345, F.S., exempting certain membership dues from public procurement requirements; amending s. 287.012, F.S., modifying definition of "commodity"; defining "exceptional purchase", "term contract", and "competitive bids/offers"; amending s. 287.042, F.S., providing powers and duties of the division with respect to term contracts; providing procedures for actions protesting term contract or exceptional purchase decisions; requiring a bond; providing for hearings; providing for payment of attorney's fees and costs; modifying provisions relating to reporting use of minority business enterprises in state contracting; amending s. 287.052, F.S., providing for commodities acquired incidental to the acquisition of services; amending s. 287.057, F.S., clarifying language; amending s. 287.058, F.S., increasing the threshold amount for contractual services requiring a written agreement; requiring certification of an emergency precluding execution of a written agreement within a specified time period; amending s. 287.062, F.S., exempting certain emergency purchases from competitive bid requirements; providing for waiver of requirements for written agreements for certain services; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By the Committees on Appropriations, Finance and Taxation and International Trade and Economic Development and Representative Gonzalez-Quevedo and others—

CS for CS for HB 1571—A bill to be entitled An act relating to economic development; creating the "Florida Economic Development Act of 1988"; creating the Florida International Advisory Council; providing functions and duties; providing membership; authorizing employment of an executive director and staff; providing for per diem and travel reimbursement; providing for reports; providing for repeal; providing legislative intent; creating the Florida Economic Growth Commission; providing for members and their duties; authorizing the employment of administrative staff; providing for travel reimbursement and per diem; providing powers and duties; providing for a strategic economic plan; providing administrative funding; providing for future repeal; creating s. 15.185, F.S., relating to sister city relationships between Florida cities and cities throughout the world and sister state relationships between the State of Florida and countries and provinces throughout the world; providing for powers; amending s. 159.445, F.S.; renaming the Florida High Technology Innovation Research and Development Fund as the Florida Seed Capital Fund; renaming and transferring the Florida High Technology Innovation Research and Development Board as the Florida Seed Capital Board and providing its powers and duties; providing for annual election of a chairperson; prohibiting certain investments; providing an appropriation; providing for a feasibility study; providing for suspension of expenditures from the Florida Seed Capital Fund pending specified action by the Legislature; providing exceptions; amending s. 288.03, F.S.; providing additional powers and duties to the Division of Economic Development; requiring a report; saving s. 288.012(2), F.S., relating to department exemptions from specified provisions of state law in connection with the establishment, management, and operation of any of its offices in a foreign country, from scheduled repeal on January 1, 1989, and providing for future review and repeal; reorganizing chapter 288, F.S.; creating s. 288.118, F.S.; creating the position of export finance officer within the Department of Commerce; providing duties of such officer; creating part VI of chapter 288, F.S., relating to Florida export finance corporations; providing legislative purposes and findings; providing definitions; providing for a feasibility study; providing procedures for incorporation of an export finance corporation; providing for a committee to prepare articles of incorporation and bylaws; providing content of articles of incorporation and bylaws; providing special corporate powers; providing for uses of corporate assets; providing prohibition relating to export capital; providing for powers of stockholders; providing procedures for amendments to the articles of incorporation; providing for the conduct of corporate business; providing for the use of corporate earnings; requiring designation of a corporation depository for corporate funds; requiring periodic examinations of the corporation by the Department of Banking and Finance and requiring reports; providing for meetings; providing for dissolution of the corporation; providing that the credit of the state is not pledged; requiring an occupational license tax; providing a fiscal year for the corporation; amending s. 288.115, F.S.; correcting a cross-reference; amending s. 220.02, F.S., relating to the Florida corporate income tax; providing legislative intent and order of tax credits; amending s. 220.03, F.S.; providing definitions; providing for repeal; amending ss. 220.181, 220.182, 220.183, and 220.184, F.S.; correcting cross-references; creating ss. 220.188 and 624.5106, F.S.; providing for export development corporation tax credits; providing requirements and conditions to claim said credit; providing for repeal; amending s. 199.023, F.S., relating to intangible personal property taxes; revising the definition of the term "banking organization" to include a Florida export finance corporation; providing duties of the Florida Small Business Development Centers; amending s. 290.0055, F.S.; providing for change of boundaries of approved enterprise zones; requiring that certain enterprise zones include a neighborhood improvement district; amending s. 290.0065, F.S.; revising enterprise zone categories; revising provisions relating to rescinding of approval of such zones; authorizing approval of additional zones; amending s. 212.08, F.S.; revising requirements relating to qualification for the sales tax exemptions for building materials used in the rehabilitation of real property located in an enterprise zone, for business property used in an enterprise zone, and for electrical energy used in an enterprise zone; amending s. 212.096, F.S., which provides a credit against the sales tax for job creation in enterprise zones; revising the definition of the term "new employee"; revising the amount of the credit; revising requirements for qualification for the credit; revising the time period for allowing the credit; adding a provision to the required filing statement; requiring the annual filing of forms containing specified information; amending s. 220.03, F.S.; revising the definition of "new employee" under the Florida Income Tax Code; amending s. 220.181, F.S., which provides an enterprise zone jobs credit against the corporate income tax; revising the amount of the credit; revising requirements for qualification for the credit; adding a provision to the required filing statement; requiring the annual filing of forms containing specified information; providing an exception from the prohibition against a business which claims said credit also claiming the credit against the sales tax for job creation in enterprise zones; providing specified applicability; repealing s. 220.181(5), F.S., relating to certain employment qualifications for said credit; amending s. 290.008, F.S.; deleting a cross-reference with respect to enterprise zones; amending section 1 of chapter 86-216, Laws of Florida; extending the expiration date of the Florida Council on Asian Affairs; creating the International Banking and Trade Study Commission; providing for appointment of members; providing for reimbursement of expenses; providing for termination of the commission; providing for administrative support of the Department of Banking and Finance; providing duties of the commission; requiring reports to the Governor and Legislature; amending s. 663.06, F.S.; authorizing the department to extend the period for which an international banking corporation license to operate an international bank agency, representative office, or administrative office is valid; requiring annual financial statements and fees; providing for termination of operations and surrender of license; providing appropriations; providing effective dates.

—was referred to the Committees on Commerce; Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative Titone—

HB 1632—A bill to be entitled An act relating to mechanics' liens; amending s. 95.11, F.S.; providing for the statute of limitations on recovery of real property with respect to certain action to enforce a claim against certain payment bonds; amending s. 255.05, F.S.; providing additional requirements with respect to the payment and performance bond of a contractor constructing public buildings; amending s. 713.02, F.S.; revising language with respect to payment bonds under the mechanics' lien law; amending s. 713.13, F.S.; requiring a true copy of the bond to be attached to the notice of commencement; amending s. 713.14, F.S.; specifying application of payment to certain contract obligations; amending s. 713.20, F.S.; prohibiting the waiver of lien rights in advance; providing a form for partial release of a lien; amending s. 713.23, F.S.; revising language with respect to payment bonds; requiring written notice of nonpayment to surety for certain persons to recover on payment bonds; amending s. 713.345, F.S.; revising language with respect to penalties concerning violations for moneys received for real property improvements; creating s. 489.128, F.S.; providing legal and equitable remedies for failure of a person to properly apply payments received for improvements to real property; providing procedures; providing for payment of costs and attorney's fees to the prevailing party; repealing s. 713.347, F.S., relating to funds to be held in trust; providing an effective date.

—was referred to the Committees on Commerce; Economic, Community and Consumer Affairs; and Judiciary-Civil.

By the Committee on Finance and Taxation and Representative Young—

HB 1661—A bill to be entitled An act relating to ad valorem taxation; amending s. 193.023, F.S.; specifying the method to be used by the property appraiser in assessing cooperative parcels; amending s. 193.075, F.S.; correcting a reference; amending s. 197.202, F.S.; revising provisions relating to destruction of tax receipts after microfilming; amending s. 197.342, F.S.; revising provisions relating to the millage and tax statement which accompanies the notice of taxes; amending s. 200.065, F.S.; requiring notice to taxpayers when a taxing authority's tentatively adopted millage rate exceeds a proposed rate that has been adjusted pursuant to issuance of a review notice; providing a deadline for taxing authorities to submit notice of the final approved millage rate; amending s. 286.0105, F.S., which requires notices of public meetings to contain a statement that a record of the meeting is required to appeal a decision made at the meeting; providing an exemption for notices of hearings required to adopt millage rates; adding s. 192.037(10), F.S.; providing conditions applicable to the assessment of time-share property; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By the Committee on Finance and Taxation and Representative Simon—

HB 1682—A bill to be entitled An act relating to finance and taxation; amending s. 95.091, F.S.; revising provisions which specify time periods within which the Department of Revenue may determine and assess taxes, penalties, and interest; amending s. 213.053, F.S.; revising provisions which authorize the department to disclose certain information to certain county or subcounty district governing bodies; amending s. 213.75, F.S.; revising provisions which specify the application of payments made to the department with respect to revenue laws; creating s. 213.35, F.S.; specifying that persons required by law to perform any act in administration of certain taxes shall keep books and records until the expiration of the time within which the department may make an assessment with respect thereto; amending ss. 206.12, 207.008, 211.125, 211.33, 212.04, 212.12, 212.13, and 214.17, F.S.; providing that records shall be preserved as required by s. 213.35, F.S., with respect to the following taxes: taxes on fuels and other pollutants; tax on operation of commercial motor vehicles; taxes on production of oil and gas and severance of solid minerals; tax on sales, use and other transactions, including admissions and rentals and license fees; and designated nonproperty taxes; amending s. 215.322, F.S.; revising requirements regarding acceptance of credit cards by state agencies; removing an exemption from service fees for certain revenues; authorizing imposition of surcharges; providing for contracts with financial institutions or credit card companies; authorizing units of local government to accept credit cards; providing for confidentiality; amending s. 206.425, F.S.; providing that if a person can establish to the satisfaction of the department that a fuel tax has been remitted or that no tax was due, he may seek relief pursuant to informal conference procedures; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By the Committee on Regulatory Reform and Representative Lippman and others—

HB 1683—A bill to be entitled An act relating to motor vehicle dealers; amending s. 320.131, F.S.; providing for the issuance of more than two "temporary tags" by the Department of Highway Safety and Motor Vehicles under certain circumstances; disallowing the purchase of such tags under certain circumstances; amending s. 320.27, F.S.; providing definitions with respect to motor vehicle dealers; providing an exemption from licensure as a wholesale motor vehicle dealer; defining "salvage motor vehicle dealer"; providing that specified persons must file a set of fingerprints with the department; revising language with respect to license certificates; providing additional penalties; revising language with respect to denial, suspension or revocation of license; providing for deposit of specified fees; amending s. 320.60, F.S.; revising the definition of "agreement" or "franchise agreement"; defining "line-make vehicles"; creating s. 320.605, F.S.; providing legislative intent with respect to regulation of the licensing of motor vehicles dealers and manufacturers; amending s. 320.61, F.S.; requiring certain motor vehicle manufacturers, importers, and distributors to be licensed; providing for jurisdiction with respect to such licensees; amending s. 320.62, F.S.; conforming language; amending s. 320.63, F.S.; revising language with respect to application for license and contents thereof; amending s. 320.64, F.S.; revising language with respect to denial, suspension or revocation of license; creating s. 320.6403, F.S.; providing for distribution agreements and for obligations of manufacturers and importers; amending s. 320.6405, F.S.; revising language with respect to franchise agreements and obligations of the manufacturer and its agent; amending s. 320.641, F.S.; providing criteria for determination of whether or not a discontinuation, cancellation or nonrenewal of a franchise agreement is unfair; providing criteria with respect to abandoned franchise agreements; prohibiting replacement dealers for a certain time period; amending s. 320.642, F.S.; providing procedure with respect to dealer licenses in areas previously served; amending s. 320.643, F.S.; expanding provisions with respect to procedure for transfer of a franchise agreement; amending s. 320.644, F.S.; providing clarifying language with respect to a change in executive management or a transfer of the franchise; amending s. 320.645, F.S.; deleting language making it unnecessary for a proposed motor vehicle dealer to provide exclusive facilities and personnel under certain circumstances; amending s. 320.696, F.S.; providing clarifying language with respect to reasonable compensation for work by a motor vehicle dealer for warranty repairs or service on behalf of a licensee; creating s. 320.699, F.S.; providing a procedure for administrative hearings and adjudications; creating s. 320.6991, F.S.; providing for the dismissal of certain proceedings; providing an appropriation; providing for application of the act; saving ss. 320.27-320.31, F.S., and ss. 320.60-320.71, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Appropriations.

By the Committee on Appropriations and Representative Bell—

HB 1717—A bill to be entitled An act relating to professional sports franchises; providing for the duties of the Sports Advisory Council; providing for the duties of the Department of Commerce in carrying out the provisions of this act; providing for applications; providing for review; providing for legislative action; providing a state funding program; creating a Professional Sports/Economic Trust Fund; providing for uses of the fund; providing appropriations; providing an effective date.

—was referred to the Committee on Appropriations.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 116 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 116—A bill to be entitled An act relating to state university direct-support organizations; amending s. 240.299, F.S.; specifying which records of such organizations are not considered public records subject to ch. 119, F.S.; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; providing an effective date.

Amendment 1—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (2) of section 240.299, Florida Statutes, is amended, subsection (3) is renumbered as subsection (4) and amended, and a new subsection (3) is added to said section, to read:

240.299 Direct-support organizations; use of property; *board of directors;* audit; status.—

(2) USE OF PROPERTY.—

(b) The Board of Regents *shall* ~~is authorized to~~ prescribe by rule *conditions* ~~any condition~~ with which a university direct-support organization must comply in order to use property, facilities, or personal services at any state university. *Such rules shall provide for budget and audit review and oversight by the Board of Regents.*

(3) BOARD OF DIRECTORS.—The chairman of the Board of Regents may appoint a representative to the board of directors and the executive committee of any direct-support organization established under this section. The president of the university for which the direct-support organization is established, or his designee, shall also serve on the board of directors and the executive committee of any direct-support organization established to benefit that university.

(4)~~(3)~~ ANNUAL AUDIT.—Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent, certified public accountant in accordance with rules to be promulgated by the Board of Regents. The annual audit report shall *include a management letter and shall* be submitted to the Auditor General and the Board of Regents for review. The Board of Regents and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected and that anonymity shall be maintained in the auditor's report. *Notwithstanding the provisions of s. 119.14,* all records of the organization other than the auditor's report, *management letter,* and *any* supplemental data requested by the Board of Regents and the Auditor General shall not be considered public records for the purposes of *s. 119.07(1)* ~~chapter 119~~. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 2. Paragraph (a) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(a) Appoint or remove the president of each university in accordance with rules adopted by the Board of Regents. *The Chancellor and the Board of Regents, or a committee composed of members of the Board of Regents shall review the applications of all presidential candidates and shall transmit the names of applicants they deem to be qualified to the Chancellor. The Chancellor shall be responsible for conducting the applicant interview process, analyzing the qualifications of the remaining candidates, and recommending applicants from a list of applicants submitted by the committee to the board for appointment. At least 50 percent of any search committee appointed to serve at the university level shall be composed of representatives of business and industry. The remainder of any university-level search committee shall be composed of equal numbers of representatives of university administrators, faculty, other employees, and students. No entity shall officially endorse or withhold endorsement from any candidate except the university-level search committee, the committee of the Board of Regents, or the Chancellor. Each such appointment shall be conducted in accordance with the provisions of ss. 286.011 and 119.07.* The board shall determine the compensation and other conditions of employment for each president. The board shall not provide a tenured faculty appointment to any president who is removed through termination by the board or resignation tendered at the request of the board.

Section 3. This act shall take effect October 1, 1988.

Amendment 2—In title, on page 1, strike lines 2-9 and insert: An act relating to state university direct-support organizations; amending s. 240.299, F.S., which provides an exemption from public records requirements for certain records of the organizations, to specify additional information which shall not be exempt; saving the exemption from repeal; providing for future review and repeal; including additional information in the annual audit reports; requiring the Board of Regents to prescribe by rule certain conditions for compliance by the organizations; providing for boards of directors; amending s. 240.209, F.S.; revising provisions relating to the appointment of university presidents; providing an effective date.

On motions by Senator D. Childers, the Senate concurred in the House amendments.

SB 116 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Grant	Langley	Ros-Lehtinen
Beard	Grizzle	Lehtinen	Scott
Brown	Hair	Malchon	Stuart
Childers, W. D.	Hill	Margolis	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Dudley	Jenne	Meek	Weinstein
Frank	Jennings	Myers	
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—D. Childers

Yea to Nay—Lehtinen, Margolis

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 160 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 160—A bill to be entitled An act relating to unemployment compensation; amending sections 1, 2, and 3 of chapter 82-23, Laws of Florida, as amended; extending the period during which general payment of benefits by mail and reporting by mail to certify for the payment of benefits are authorized; amending s. 443.036, F.S.; defining the term "earned income" and redefining the term "unemployment" for purposes of the Unemployment Compensation Law; excluding services performed by certain persons enrolled at certain public or nonprofit educational institutions; amending s. 443.091, F.S.; to revise references relating to benefit eligibility conditions; amending s. 443.101, F.S.; revising provisions relating to disqualification for benefits; amending s. 443.111, F.S.; requiring the deduction of income derived from self-employment from unemployment compensation benefits; restricting conditions under which extended benefits are payable; amending ss. 443.121, 443.131, and 443.141, F.S.; relating to employing units, contributions, and collection of contributions, to revise references and terminology; providing an effective date.

Amendment 1—On page 19, line 2, strike (17) (a) and insert: *(19) (a)*

On motion by Senator W. D. Childers, the Senate concurred in the House amendment.

SB 160 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Girardeau	Kirkpatrick	Ros-Lehtinen
Beard	Gordon	Langley	Scott
Brown	Grant	Lehtinen	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Hollingsworth	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Dudley	Jennings	Peterson	Woodson
Frank	Johnson	Plummer	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 419 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 419—A bill to be entitled An act relating to securities; amending ss. 125.31, 166.261, 215.47, 219.075, F.S.; providing requirements for the safekeeping of securities purchased by counties and municipalities; providing for the investment of public funds in securities of, or other interests in, certain open-end or closed-end management type investment companies or investment trusts registered under the Investment Company Act of 1940; amending ss. 280.13, 280.14, F.S.; providing that securities of, or other interests in, certain open-end or closed-end management type investment companies or investment trusts registered under the Investment Company Act of 1940 may be pledged as security for public deposits by banks or savings associations; amending s. 665.0701, F.S.; providing that savings associations, savings and loan associations, and building and loan associations may invest, without limitation, in securities of, or other interests in, certain open-end or closed-end management type investment companies or investment trusts registered under the Investment Company Act of 1940; providing an effective date.

Amendment 1—On page 7, lines 27 and 28, strike all of said lines and insert:

(n) Securities of, or other interests in, any open-end or closed-end management type investment

Amendment 2—On page 6, lines 22 and 23, strike all of said lines and insert:

(p) In the discretion of the Treasurer, securities of, or other interests in, any open-end management type investment company or investment

Amendment 3—On page 1, lines 13 and 14, strike "or closed-end"

Amendment 4—On page 2, line 1, insert:

Section 1. Section 162.06, Florida Statutes, is amended to read:

162.06 Enforcement procedure.—

(1) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.

(2) Except as provided in *subsections* ~~subsection~~ (3), *and (4)*, if a violation of the codes is found, the code inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in s. 162.12 to said violator. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in s. 162.12. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(3) In the case of repeat violations, the provisions of subsection (2) shall apply except as provided otherwise in this subsection. In the case of a repeat violation the code inspector shall notify the violator but shall not be required to give him a reasonable time to correct the violation. The code inspector, upon notifying the violator of a repeat violation, shall notify an enforcement board and request a hearing. The case may be presented to the enforcement board even if the repeat violation has been corrected prior to the board hearing For purposes of this subsection, a repeat violation means recurring violation by a violator who has been guilty of the same violation.

(4)~~(3)~~ If the code inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

Section 2. Subsections (1) and (2) of section 162.09, Florida Statutes, are amended to read:

162.09 Administrative fines; liens.—

(1) An enforcement board, *upon finding that a violation was not corrected within the time provided by the code inspector or* upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine *in the amount set forth in this section* ~~not to exceed $250~~ for each day the violation continues past the date set *by the code inspector or by the enforcement board* for compliance or, *in the case of a repeat violation,* for each *day that the violation continues past the date that the code inspector gave the violator notice of the violation. If a finding of a violation or repeat violation has been made as provided in this chapter, an additional* ~~time the violation has been repeated, and a~~ hearing shall not be necessary for issuance of the order *imposing the fine.*

(2)*(a) Any fine imposed pursuant to this section shall not exceed $350 per day for first-time violations, or $500 per day for repeat violations. For purposes of this paragraph, repeat violation has the same meaning as provided in s. 162.06(3).*

(b) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

1.~~(a)~~ The gravity of the violation;

2.~~(b)~~ Any actions taken by the violator to correct the violation; and

3.~~(c)~~ Any previous violations committed by the violator.

Amendment 5—On page 1, line 3, in the title, after the semicolon, insert: amending s. 162.06 F.S.; providing enforcement procedures for repeat violations; amending s. 162.09, F.S.; revising provisions which authorize imposition of fines for violations; increasing maximum fines;

On motions by Senator Brown, the Senate concurred in House Amendments 1, 2 and 3; refused to concur in House Amendments 4 and 5 and the House was requested to recede.

CS for SB 419 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for SB 1192 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1192—A bill to be entitled An act relating to waste management; amending s. 403.701, F.S.; providing a short title; amending s. 403.702, F.S.; providing legislative findings; amending s. 403.703, F.S.; providing definitions; amending s. 403.704, F.S.; revising powers and duties of the Department of Environmental Regulation; amending s. 403.7045, F.S.; providing conforming language; repealing s. 403.705, F.S., relating to the state resource recovery and management program; creating s. 403.7051, F.S., relating to compost standards and applications; amending s. 403.706, F.S.; requiring counties to operate solid waste disposal facilities; prohibiting municipalities from operating such facilities after a specified date unless approved by an interlocal agreement or special act; providing an exception; prohibiting special assessments for the purpose of funding solid waste management services except under certain circumstances; providing for user fees; providing requirements for county recycling programs; providing that local governments not in compliance with the act are ineligible for certain revenue sharing moneys; allowing local governments to impose certain conditions on an occupational license; amending s. 403.7065, F.S.; revising procurement requirements for state agencies; creating s. 403.7066, F.S., relating to the use of compost by state agencies; amending s. 403.707, F.S.; revising permitting requirements for solid waste management facilities; prohibiting local governments from discriminating against privately owned

solid waste management facilities; amending s. 403.7075, F.S.; providing conforming language; amending s. 403.708, F.S.; providing prohibitions relating to the disposal of solid waste; providing prohibitions relating to the sale of certain beverage and food containers; providing a penalty; providing for retail trade-ins of lead-acid batteries; creating s. 403.7085, F.S., relating to the disposal of animal parts, fats, byproducts, waste products, and vegetable oils disposal; creating the Solid Waste Management Trust Fund within the department; providing for the use of the fund; amending s. 403.709, F.S.; providing for grant programs to be developed by the department; providing requirements for the selection of grant recipients; providing for the funding of grants; amending s. 403.712, F.S.; providing for the use of revenues from certain bonds; amending s. 403.713, F.S.; revising certain prohibitions relating to the transport of solid waste; amending s. 403.714, F.S.; providing for recycling programs within certain state agencies; providing for demonstration projects at the Department of Agriculture and Consumer Services and the Department of Environmental Regulation; requiring the legislative and executive offices to institute a recycling program; amending ss. 403.715, 403.721, 403.722, 403.723, 403.724, 403.725, 403.727, 403.73, F.S.; providing conforming language; amending s. 403.7221, F.S.; providing for research, development, and demonstration permits for solid waste management facilities; amending s. 403.7265, F.S.; specifying date by which the decision regarding the assessment and location of a multipurpose hazardous waste facility site must be completed; providing for regional hazardous waste collection centers; amending s. 403.75, F.S.; providing definitions relating to public used oil recycling; amending s. 403.751, F.S.; providing additional prohibitions; amending s. 403.753, F.S.; authorizing state agencies and local governments to procure certain recycled oil products; amending s. 403.754, F.S.; revising registration requirements for used oil collection facilities; amending ss. 403.756, 403.758, 403.759, F.S.; providing conforming language; amending s. 403.757, F.S.; providing additional duties for certain state agencies in promoting the use of recycled oil; creating s. 403.760, F.S.; providing requirements for public used oil collection facilities; providing for immunity from liability for the owner or operator of a used oil collection center under certain circumstances; creating ss. 403.7601, 403.7602, F.S.; providing for the department to establish an incentive program and administer a grant program to encourage the collection, reuse, and disposal of used oil; requiring a report; creating ss. 403.761, 403.762, 403.763, F.S.; providing requirements for persons who transport or recycle used oil; repealing s. 403.8055(4), F.S., relating to the repeal of department rules; requiring the department to require training programs for operators of solid waste landfills, coordinators of recycling programs, and other solid waste management facilities; requiring owners and operators of landfills to maintain an escrow account to provide funds for the closure of such landfills; providing definitions; providing account requirements; providing for a fee or surcharge or other funding mechanism to ensure the financial resources to close a landfill; authorizing an owner or operator to establish proof of financial responsibility in lieu of escrow account requirements; requiring a permit to collect or process waste tires; providing for waste tire grants; providing a prohibition; requiring persons selling new motor vehicle tires to pay a fee to the Department of Revenue; providing for the deposit of such fee; authorizing the Department of Transportation to contract for certain supplemental litter removal; creating a nonprofit corporation to be funded by voluntary annual assessment of the businesses who are members; providing that both membership in the corporation and the annual assessment shall be based upon the results of a survey of litter from state highways; providing for a board of directors of the corporation; providing board membership; providing powers and duties of the board; amending s. 187.201, F.S.; revising certain policies and goals of the State Comprehensive Plan; amending s. 196.199, F.S.; requiring payment of ad valorem taxes under certain circumstances; amending s. 403.1834, F.S.; providing that certain leasehold interests in property used for multi-purpose hazardous waste treatment facilities are not exempt from ad valorem taxation; creating s. 287.074, F.S.; authorizing the Division of Purchasing of the Department of General Services to review and modify certain specifications to facilitate the purchase of recycled paper and paper products by state agencies; creating s. 336.044, F.S.; requiring the Department of Transportation to review and modify certain specifications to facilitate the use of certain recycled materials; requiring the department to undertake certain demonstration projects and report to the Legislature; requiring the department to establish an anti-litter program; authorizing certain local governments to form regional solid waste management authorities; providing requirements for local government participation; providing for a governing body of the authorities; providing for financing the operations of the authorities; providing the authorities with power of eminent domain; providing for joint liability and obligations of the participating local governments; providing for issuance of revenue bonds; creating s. 381.80, F.S.; authorizing the Department of Health and Rehabilitative Services to regulate the packaging, storage, treatment, and certain disposal of biohazardous waste; providing definitions; providing for rules, enforcement, and penalties; amending s. 395.002, F.S.; redefining the term "solid waste" for the purposes of laws regulating hospitals to include biohazardous waste; amending s. 212.08, F.S.; exempting certain machinery and equipment, related to recycling, from sales tax; amending s. 159.445, F.S.; revising duties of the Florida High Technology Innovation Research and Development Board; amending s. 240.539, F.S.; revising duties of the Florida High Technology and Industry Council; requiring the Board of Regents to coordinate solid and hazardous waste research, training, and service activities; specifying research activities; imposing a fee for the sale of newsprint in the state; requiring such fee to be reported and paid to the Department of Revenue; providing a fee credit for newsprint accepted for recycling purposes; amending s. 377.709, F.S.; revising the advanced funding program for solid waste facilities administered by the Public Service Commission; authorizing the commission to establish rules to exempt solid waste facilities operated by, or on behalf of, a local government from certain risk considerations used in setting rates; providing an advance disposal fee program; providing for repeal and future review of such program; providing for deposits on containers; providing definitions; prescribing procedures for payment and refund of deposits; providing for notification of refundability; providing for establishment of redemption centers; providing for rules; requiring the distribution of certain information; prescribing penalties; limiting the effect on local governmental authority; providing for appointment of a Solid Waste Management Advisory Council; amending s. 212.12, F.S.; altering certain allowances for the collection of taxes; amending s. 212.18, F.S.; requiring an annual registration fee; creating s. 212.237, F.S.; providing for the deposit of certain tax collections in the Solid Waste Management Trust Fund; amending s. 403.413, F.S.; revising the Florida Litter Law of 1971; prohibiting the dumping, throwing, discarding, placing, depositing, or disposing of litter, as defined, in certain places; providing penalties; providing for injunctive relief; providing for forfeiture of certain property used in committing certain violations; providing for treble damages, attorney's fees, and court costs; providing that a final judgment in a criminal proceeding estops the defendant from asserting certain issues in a subsequent civil action; providing a presumption; providing for the burden of certain proof in a criminal proceeding; providing for enforcement by specified law enforcement officers; amending s. 322.27, F.S.; providing for driver's license points to be assessed for violation of specified provisions of the Florida Litter Law; providing appropriations; creating the Applications Demonstration Center for Resource Recovery from Solid Organic Materials, and prescribing its duties; creating an advisory council for the center; transferring s. 203.10, F.S., to s. 403.7215, F.S.; amending s. 395.0101, F.S.; substituting the term biohazardous for infectious; providing appropriations; providing an effective date.

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Section 403.701, Florida Statutes, is amended to read:

403.701 Short title.—Sections 403.701-403.73 shall be known and may be cited as the "Florida *Solid Waste* ~~Resource Recovery and~~ Management Act."

Section 2. Section 403.702, Florida Statutes, is amended to read:

403.702 Legislative findings; public purpose.—

(1) In order to enhance the beauty and quality of our environment; conserve and recycle our natural resources; prevent the spread of disease and the creation of nuisances; protect the public health, safety, and welfare; and provide a coordinated statewide *solid waste* ~~resource recovery and~~ management program, the Legislature finds that:

(a) Inefficient and improper methods of managing solid waste create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.

(b) Problems of *solid waste* ~~solid waste~~ management have become a matter statewide in scope and necessitate state action to assist local government in improving methods and processes to promote more efficient methods of *solid waste* ~~solid waste~~ collection and disposal.

(c) The continuing technological progress and improvements in methods of manufacture, packaging, and marketing of consumer products

have ~~has~~ resulted in an ever-mounting increase of the mass of material discarded by the purchasers of such products, thereby necessitating a statewide approach *to assist* ~~which will avoid varied and uncoordinated solutions by~~ local governments around the state *with their solid waste management programs.*

(d) The economic and population growth of our state and the improvements in the standard of living enjoyed by our population have required increased industrial production together with related commercial and agricultural operations to meet our needs, which have resulted in a rising tide of unwanted and discarded materials.

(e) The failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources, and, therefore, maximum resource recovery from solid waste and maximum recycling and reuse of such resources must be considered goals of the state.

(f) Certain solid waste, due to its quantity; concentration; or physical, chemical, biological, or infectious characteristics, is ~~exceptionally~~ hazardous to human health, safety, and welfare and to the environment, and exceptional attention to the transportation, disposal, storage, and treatment of such waste is necessary to protect human health, safety, and welfare and the environment.

(g) This act should be integrated with other acts *and parts of this chapter* such that nonhazardous waste discharges currently regulated under this chapter, water or solid waste construction, modification, or operating permits, air emissions, special wastes, and other activities regulated under other more appropriate *provisions of law* ~~acts~~ remain in full force and effect and are not preempted by the requirements of this act.

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of this state; and recover resources which have the potential for further usefulness.

(b) Establish and maintain a cooperative state program of planning and technical *and financial* assistance for *solid waste* ~~resource recovery and~~ management.

(c) Provide the authority, and require counties and municipalities, to adequately plan and provide efficient, environmentally acceptable *solid waste* ~~resource recovery and~~ management and require counties to plan for proper hazardous waste management.

(d) Require review of the design, and issue permits for the *construction,* operation, *and closure* of *solid waste* ~~resource recovery and~~ management facilities.

(e) Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.

(f) Ensure that ~~exceptionally~~ hazardous ~~solid~~ waste is transported, disposed of, stored, and treated in a manner adequate to protect human health, safety, and welfare and the environment.

(g) Promote the *reduction,* recycling, reuse, or treatment of solid waste, specifically including hazardous waste, in lieu of disposal of such wastes.

(h) Promote the application of methods and technology for the treatment, disposal, and transportation of hazardous wastes which are practical, cost-effective, and economically feasible.

(i) Encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including, but not limited to, contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality.

(j) Promote the education of the general public and the training of solid waste professionals to reduce the production of solid waste, to ensure proper disposal of solid waste, and to encourage recycling.

(k) Encourage the development of waste reduction and recycling as a means of managing solid waste, conserving resources, and supplying energy through planning, grants, technical assistance, and other incentives.

(l) Encourage the development of the state's recycling industry by promoting the successful development of markets for recycled items and by promoting the acceleration and advancement of the technology used in manufacturing processes that use recycled items.

(m) Require all state agencies to aid and promote the development of recycling through their procurement policies for the general welfare and economy of the state.

(n) Require counties and certain municipalities to develop and implement recycling programs within their jurisdictions to return valuable materials to productive use, to conserve energy and natural resources, and to protect capacity at solid waste management facilities.

(o) Ensure that biohazardous waste is transported, stored, treated, and disposed of in a manner adequate to protect human health, safety, and welfare and the environment.

(p) Require counties, municipalities, and state agencies to determine the full cost for providing, in an environmentally safe manner, storage, collection, transport, separation, processing, recycling, and disposal of solid waste material, and encourage counties, municipalities, and state agencies affected to contract with private persons for any or all such services if the private persons can perform such services on a more cost-effective basis.

Section 3. Section 403.703, Florida Statutes, is amended to read:

403.703 Definitions.—As used in this act, *unless the context clearly indicates otherwise,* the term:

(1) "Department" means the Department of Environmental Regulation or any successor agency performing a like function.

(2) "County ~~or municipality~~," or any like term, *means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution* ~~includes political subdivisions engaged in resource recovery and management~~.

(3) "Municipality," or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

(4) "Municipal solid waste" includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. The term includes yard trash, but does not include solid waste from industrial, mining, or agricultural operations.

(5)~~(3)~~ "Person" means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(6) "Recyclable material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

(7)~~(4)~~ "Recycling" means *any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products* ~~the reuse of solid waste in manufacturing, agriculture, power production, or other processes~~.

(8) "Recovered materials" means those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream for sale, use, or reuse, by separation, collection, or processing.
Recovered materials are not solid waste for the purpose of regulation under this part and shall not be subject to regulation under this part and rules promulgated pursuant thereto, provided that:

(a) A majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within 1 year;

(b) The recovered materials or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water so that such products or byproducts or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including ground waters, or otherwise enter the environment or pose a threat to public health and safety; and

(c) The recovered materials are not hazardous wastes and have not been recovered from solid wastes which are defined as hazardous wastes under subsection (20), and rules promulgated pursuant thereto.

(9)~~(5)~~ "*Solid waste* ~~Resource~~ management" means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly, purposeful, and planned program.

(10)~~(6)~~ "Resource recovery" means the process *of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission* ~~by which materials, excluding those under control of the Atomic Energy Commission, which still have useful physical or chemical properties after serving a specific purpose are reused or recycled for the same or other purposes, including use as an energy source~~.

(11)~~(7)~~ "*Solid waste* ~~Resource recovery and~~ management facility" means any solid waste disposal area, volume reduction plant, *transfer station,* or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste.

(12)~~(8)~~ "Resource recovery equipment" means equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste.

(13)~~(9)~~ "Solid waste" *includes garbage, refuse,* ~~means~~ sludge from a waste treatment works, water supply treatment plant, or air pollution control facility *and* ~~or garbage, rubbish, refuse, or~~ other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(14)~~(10)~~ "Volume reduction plant" includes~~, but is not limited to,~~ incinerators, pulverizers, compactors, shredding and baling plants, ~~transfer stations,~~ composting plants, and other plants which accept and process solid waste for recycling or disposal.

(15)~~(11)~~ "Yard trash" means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(16) "Transfer station" means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

~~(12) "Trash landfills" means combinations of yard trash and construction and demolition debris along with paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, and other like matter.~~

~~(13) "Construction and demolition debris" means material generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, or asphalt roofing material.~~

~~(14) "Class I solid waste disposal area" means a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in place after covering, and which receives an initial cover daily.~~

~~(15) "Class II solid waste disposal area" means a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.~~

~~(16) "Initial cover" means a 6 inch layer of compacted earth, or other suitable material as approved by the department, used to enclose a volume of solid waste prior to intermediate or final cover.~~

~~(17) "Monitoring well" means a strategically located well from which water samples are drawn for water quality analysis.~~

(17)~~(18)~~ "Closure" means the cessation of operation of a *solid waste* ~~resource recovery and~~ management facility and the act of securing such facility so that it will pose no significant threat to human health or the environment.

(18)~~(19)~~ "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including ground waters, or otherwise enter the environment.

(19)~~(20)~~ "Generation" means the act or process of producing hazardous waste.

(20)~~(21)~~ "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

(21)~~(22)~~ "Hazardous waste facility" means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(22)~~(23)~~ "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, *recycling,* and disposal of hazardous wastes.

(23)~~(24)~~ "Manifest" means the *recordkeeping system* ~~method~~ used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, storage, or treatment.

(24)~~(25)~~ "Operation," with respect to any *solid waste* ~~resource recovery and~~ management facility, means the disposal, storage, or *processing* ~~treatment~~ of solid waste at and by the facility.

(25)~~(26)~~ "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(26)~~(27)~~ "Transport" means the movement of hazardous waste from the point of generation or point of entry into the state to any offsite intermediate points, and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(27)~~(28)~~ "Treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(28)~~(29)~~ "Hazardous substance" means any substance which is defined as a hazardous substance in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767.

(29)~~(30)~~ "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this act.

(30)~~(31)~~ "Land disposal" means any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt bed formation, salt dome formation, or underground mine or cave.

(31) "Special wastes" means solid wastes that can require special handling and management, including, but not limited to, white goods, whole tires, used oil, mattresses, furniture, lead-acid batteries, and pathogenic wastes.

(32) "Clean debris" means any solid waste which is virtually inert and which is not a pollution threat to groundwater or surface waters and is not a fire hazard, and which is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, ceramics, and other wastes designated by the department.

(33) "Solid waste processing" means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to recovery, storage or recycling, or safe for disposal, or reduced in volume or concentration.

(34) "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

(35) "White goods" includes inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(36) "Free liquid waste" means bulk or noncontainerized liquid waste which is capable of passing through a 60-mesh paint filter, except household wastes other than septic tank wastes.

(37) "Pathogenic waste" includes, but is not limited to, dead animals, biohazardous wastes, and waste from the operation of hospitals, clinics, dialysis centers, nursing homes, dental offices, private practitioner offices, veterinary clinics, and university laboratories and other laboratories that causes or has the capability to cause disease. Such waste includes, but is not limited to, microbiological laboratory waste, pathology waste, blood specimens or blood products, and all sharps, including used needles.

Section 4. Subsection (69) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(69) HAZARDOUS MATERIAL.—Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703*(20)*~~(21)~~.

Section 5. Paragraph (a) of subsection (2) and subsection (3) of section 319.30, Florida Statutes, are amended to read:

319.30 Dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(2)(a) As used in this section:

1. A motor vehicle or mobile home is a "total loss" when an insurance company pays to the vehicle owner 80 percent or more of the cost, at the time of loss, of replacing the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the owner upon the theft of the motor vehicle or mobile home. An uninsured motor vehicle or mobile home that is wrecked or damaged is defined to be a total loss when the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the owner of replacing the wrecked or damaged vehicle with one of like kind and quality.

2. A motor vehicle or mobile home is "salvage" when the frame or engine is removed from the motor vehicle or mobile home and not immediately replaced by another frame or engine or when the motor vehicle or mobile home is a total loss as defined in this paragraph.

3. "Junk" means any motor vehicle or mobile home, with or without all component parts, which is inoperable at the time of receipt by a junkyard, salvage yard, or scrap metal processing plant meeting the definition of a *solid waste* ~~resource recovery and~~ management facility in s. 403.703*(11)*~~(7)~~, which vehicle is in such condition that its highest or primary value is either as scrap material or as component parts or a combination of the two.

(3) It is unlawful for the owner of any junkyard, scrap metal processing plant which meets the criteria of a *solid waste* ~~resource recovery and~~ management facility as defined in s. 403.703*(11)*~~(7)~~, or salvage yard or his agent or employee to have in his possession any motor vehicle or mobile home which is junk or salvage, as defined in paragraph (2)(a), when the manufacturer's identification number plate or serial plate has been removed therefrom. However, nothing in this subsection shall be applicable when a vehicle defined in this section as junk or salvage was purchased or acquired from a foreign state requiring such vehicle's identification number plate and license plate to be surrendered to such state, provided the owner of the junkyard or salvage yard or his agent or employee shall have a notarized bill of sale describing the vehicle by manufacturer's serial number and the state to which such vehicle's identification number plate was surrendered. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(1) *Develop and implement, in consultation with local governments, a state solid waste* ~~Adopt by rule for the state a resource recovery and~~ management program, as defined in s. 403.705, *and update the program at least every 3 years* ~~by July 1, 1976~~. In developing *rules to implement* the state *solid waste* ~~resource recovery and~~ management program, the department shall hold public hearings around the state ~~in accordance with chapter 120~~ and shall give notice of such public hearings to all local governments and regional planning agencies.

(2) Provide technical assistance to counties, municipalities, and other persons, and cooperate with appropriate federal agencies and private organizations in carrying out the provisions of this act.

(3) Promote the planning and application of recycling and resource recovery systems which preserve and enhance the quality of the air, water, and other natural resources of the state *and assist in and encourage, where appropriate, the development of regional solid waste management programs and facilities.*

(4) Serve as the official state representative for all purposes of the Federal Solid Waste Disposal Act, as amended by Pub. L. No. 91-512, or as subsequently amended.

(5) *Use* ~~Utilize~~ private industry *or the State University System* through contractual arrangements for implementation of some or all of the requirements of the state *solid waste* ~~resource recovery and~~ management program and for such other activities as may be considered necessary, desirable, or convenient.

(6) Encourage recycling and resource recovery as *a source of* ~~an~~ energy *and materials* ~~source~~.

(7) Assist in and encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

(8) Charge reasonable fees for any services it performs pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with *solid waste* ~~resource recovery and~~ management services.

(9) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the purpose of providing sites for *solid waste* ~~resource recovery and~~ management facilities.

(10) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, such *solid waste* ~~resource recovery and~~ management facilities as are called for by the state *solid waste* ~~resource recovery and~~ management program.

(11) Receive funds or revenues from the sale of products, materials, fuels, or energy in any form derived from processing of solid waste by state-owned or state-operated facilities, which funds or revenues shall be deposited into the *Solid Waste Management Trust* ~~General Revenue~~ Fund.

(12) Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each ~~Class I~~ solid waste disposal area.

~~(13) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply; an employee shelter; handwashing and toilet facilities; equipment washout facilities; electric service for operations and repairs; equipment shelter for maintenance and storage of parts, equipment, and tools; scales for weighing solid waste received at the disposal area; a trained equipment operator in full-time attendance during operating hours; and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.~~

~~(14) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to the site in the direction of ground water flow unless otherwise exempted by the department. The department may require additional monitoring wells not farther than 1 mile from the site if it is affirmatively demonstrated by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.~~

~~(15) Promulgate rules for solid waste disposal areas limited exclusively to yard trash, for solid waste disposal areas limited exclusively to construction and demolition debris, and for solid waste disposal areas limited exclusively to trash. Such rules shall take into account the reduced environmental threat caused by the segregated disposal of these solid wastes. Reduced requirements for engineering, location, covering, monitoring wells, or forced draft burning may be allowed for such solid waste disposal areas, providing the requirements will not allow a threat to the public health or environment to exist and providing the requirements are consistent with all other state or local laws, ordinances, rules, regulations, or orders.~~

(13)~~(16)~~ Adopt, repeal, or amend rules to implement, administer, and enforce this act*., including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities. When classifying solid waste management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility, and shall seek to minimize the adverse effects of solid waste management on the environment.* Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies *were* ~~are~~ required *prior to October 1, 1988,* under *s. 8002 of* the Resource Conservation and Recovery Act, *42 U.S.C. ss. 6982,* as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(14)~~(17)~~ Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

(15)~~(18)~~ *Conduct* research, *using the State University System, solid waste professionals from local governments, private enterprise, and other organizations, on* alternative, economically feasible, cost-effective, and environmentally safe *solid waste management and* landfill closure methods which ~~serve to~~ protect the health, safety, and welfare of the public and the environment *and which may assist in developing markets and provide economic benefits to local governments, the state, and its citizens, and* ; solicit public participation during the research process; ~~create a three-member research oversight review committee comprised of industry, university, and legislative staff representatives; and submit a report on these alternatives to the Legislature by February 1, 1985.~~ The department shall incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.

(16) Develop and implement or contract for services to develop information on recovered material markets and strategies for market development and expansion for use of these materials. Additionally, the department shall maintain a registry of recycling businesses operating in the state and shall serve as a coordinator to match recovered materials with markets. Such registry shall be made available to the public and to local governments to assist with their solid waste management activities.

(17)~~(19)~~ Authorize variances from solid waste closure rules adopted pursuant to this part, provided such variances are applied for and approved in accordance with s. 403.201 and will not result in significant threats to human health or the environment.

(18) Establish accounts and deposit to the Solid Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(19)~~(20)~~ Establish an account and deposit to the Hazardous Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(20) Manage a program of grants, using funds from the Solid Waste Management Trust Fund and funds provided by the Legislature for solid waste management, for programs for recycling, litter control, and special waste management and for programs which provide for the safe and proper management of solid waste.

(21) Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(22) Delegate its powers, enter into contracts, or take such other actions as may be necessary to implement this act.

(23) Receive and administer funds appropriated for county hazardous waste management assessments.

(24) Provide technical assistance to local governments and regional agencies to ensure consistency between county hazardous waste management assessments; coordinate the development of such assessments with the assistance of the appropriate regional planning councils; and review and make recommendations to the Legislature relative to the sufficiency of the assessments to meet state hazardous waste management needs.

(25) *Increase* ~~Promote~~ public *education and public* awareness of *solid and* hazardous waste issues, *by developing and promoting statewide programs of litter control, recycling, volume reduction,* and proper methods of *solid waste and hazardous waste* management.

(26) Assist the hazardous waste storage, treatment, or disposal industry by providing to the industry any data produced on the types and quantities of hazardous waste generated.

(27) Institute a hazardous waste emergency response program which would include emergency telecommunication capabilities and coordination with appropriate agencies.

(28) Promulgate rules necessary to accept delegation of the hazardous waste management program from the Environmental Protection Agency under the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

(29) Not later than February 1, 1989, initiate rulemaking to address the management of biohazardous waste, as defined in s. 395.002(13)(c), within the state. Such rules shall address onsite and offsite incineration, and shall regulate biohazardous waste from the point at which such waste is transported from a facility which generates such waste, for the purpose of offsite shipment for storage, treatment, or disposal, and shall include provisions for the registering of transporters of biohazardous waste.

Section 7. Subsections (2) and (3) of section 403.7045, Florida Statutes, are amended to read:

403.7045 Application of act and integration with other acts.—

(2) Except as provided in s. 403.704*(13)*~~(16)~~, the following wastes shall not be regulated as a hazardous waste, including a special waste, pursuant to this act, except when determined by the United States Environmental Protection Agency to be a hazardous waste, including a special waste:

(a) Ashes and scrubber sludges generated from the burning of boiler fuel for generation of electricity or steam.

(b) Agricultural and silvicultural byproduct material and agricultural and silvicultural process waste from normal farming or processing.

(c) Discarded material generated by the mining and beneficiation and chemical or thermal processing of phosphate rock; and precipitates resulting from neutralization of phosphate chemical plant process and nonprocess waters.

(3) The following wastes or activities shall be regulated pursuant to this act in the following manner:

(a) Dredge spoil or fill material shall be disposed of pursuant to a dredge and fill permit; but whenever hazardous components are disposed of within the dredge or fill material, the dredge and fill permits shall specify the specific hazardous wastes contained and the concentration of each such waste. The department may then limit or restrict the sale or use of the dredge and fill material and may specify such other conditions relative to this material as are reasonably necessary to protect the public from the potential hazards.

(b) Hazardous wastes which are contained in artificial recharge waters or other waters intentionally introduced into any underground formation and which are permitted pursuant to s. 373.106 shall also be handled in compliance with the requirements and standards for disposal, storage, and treatment of hazardous waste under this act.

(c) Solid waste or hazardous waste facilities which are operated as a part of the normal operation of a power generating facility and which are licensed by certification pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.517, shall undergo such certification subject to the substantive provisions of this act.

(d) *Biohazardous* ~~Infectious~~ waste as defined in s. 395.002(13) which emanates from a hospital or ambulatory surgical center as defined in s. 395.002 *and pathogenic waste as defined in s. 403.703(37)* shall be disposed of *only as* ~~by any means~~ authorized by the department, including land disposal after sterilization or incineration. *However,* any person who unknowingly disposes into a sanitary landfill any such waste which has not been properly segregated or separated from other solid wastes by the generating facility is not guilty of a violation under this act. Nothing in this paragraph shall be construed to prohibit the department from seeking injunctive relief pursuant to s. 403.131 to prohibit the unauthorized disposal of *biohazardous* ~~infectious~~ waste.

(e) Ash generated by a solid waste management facility from the burning of solid waste shall be disposed of in a properly designed solid waste disposal area that complies with standards developed by the department for the disposal of such ash. Rulemaking shall be initiated and at least one public hearing held by February 1, 1989. The department shall work with solid waste management facilities which burn solid waste to identify and develop methods for recycling and reuse of incinerator ash or treated ash.

Section 8. Section 403.7049, Florida Statutes, is created to read:

403.7049 Determination of full cost for solid waste management; local solid waste management fees.—

(1) Within 1 year of the effective date of this act or within 1 year after guidelines are established by the department, whichever occurs later, each county and each municipality shall determine the full cost for solid waste management within the service area of the county or municipality for the 1-year period beginning on the effective date of this act, and shall update the full cost every year thereafter. In calculating the full cost for solid waste management, the county or the municipality shall consider:

(a) Costs for solid waste management, including:

1. Capital costs for land, structures, vehicles, equipment, and other items used for solid waste management;

2. Operating and maintenance costs for solid waste management;

3. Costs to comply with applicable statutes, rules, permit conditions, and insurance requirements;

4. Costs for closing and monitoring an existing solid waste management facility; and

5. If the county or municipality decides to include future costs in current budgets, costs for constructing a new solid waste management facility or expanding an existing solid waste management facility.

(b) The following revenues:

1. Any income received from recycling or resource recovery of materials.

2. Any income received from the sale of equipment or other components of the solid waste system.

3. Any interest earnings on income specified under subparagraph 1. or subparagraph 2.

(2)(a) Within 1 year from the effective date of this act and until the requirements of paragraph (b) are met, each municipality shall establish a system to inform, no less than once a year, residential and nonresidential users of solid waste management services within the municipality's service area of the user's share, on an average or individual basis, of the full cost for solid waste management as determined pursuant to subsection (1). Counties shall provide the information required of municipalities only to residential and nonresidential users of solid waste management services within the county's service area that are not served by a municipality. Municipalities shall include costs charged to them or persons contracting with them for disposal of solid waste in the full cost information provided to residential and nonresidential users of solid waste management services.

(b) Within 4 years from the effective date of this act, counties and municipalities shall fund the full cost of solid waste management, as determined pursuant to subsection (1), from fees, including impact fees, or assessments imposed on the occupants or owners of residential and nonresidential improved property or the users of such solid waste management services, except as provided in paragraph (c). Such fees or assessments are not required to precisely reflect the actual costs of each user and may reflect average costs, provided that the full costs are collected by such fees or assessments.

(c) A county or municipality may elect to fund from alternate sources the acquisition or construction of capital facilities needed to provide solid waste management services. If such election is made, the disclosure provisions of paragraph (a) shall apply.

(d) Any county, municipality, or combination thereof that has committed the proceeds from a local option sales tax for which approval has been obtained by referendum prior to the effective date of this act for solid waste management, may elect to delay the application of paragraph (b) until the end of such commitment. If such election is made, the disclosure provisions of paragraph (a) shall continue to apply until the end of such commitment.

(3) For purposes of this section, "service area" means the area in which the county or municipality provides, directly or by contract, solid waste management services. The provisions of this section shall not be construed to require a person operating under a franchise agreement to collect or dispose of solid waste within the service area of a county or municipality to make the calculations or to establish a system to provide the information required under this section, unless such person agrees to do so as part of such franchise agreement.

(4) In order to assist in achieving the municipal solid waste reduction goals and the recycling provisions of a county's local solid waste management program, a county or a municipality which owns or operates a solid waste management facility is hereby authorized to charge solid waste disposal fees which may vary based on a number of factors, including, but not limited to, the amount, characteristics, and form of recyclable materials present in the solid waste that is brought to the county's or the municipality's facility for processing or disposal.

(5) In addition to all other fees required or allowed by law, a county or a municipality, at the discretion of its governing body, may impose a fee for the services the county or municipality provides with regard to the collection, processing, or disposal of solid waste, to be used for developing and implementing a local solid waste management program pursuant to s. 403.706 or a recycling program pursuant to s. 403.7064. For such fees, the local governing body of any county or municipality may use the non-ad valorem levy, collection, and enforcement method as provided for in chapter 197.

(6) This section does not prohibit a county, municipality, or other person from providing grants, loans, or other aid to low-income persons to pay part or all of the costs of such persons' solid waste management services.

Section 9. Section 403.705, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.705, F.S., for present text.)

403.705 State solid waste management program.—

(1) The state solid waste management program shall:

(a) Provide guidelines for the orderly collection, transportation, storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state;

(b) Encourage coordinated local activity for solid waste management within a common geographical area;

(c) Investigate the present status of solid waste management in the state with positive proposals for local action to correct deficiencies in present solid waste management processes;

(d) Provide planning, technical, and financial assistance to local governments and state agencies for reduction, recycling, reuse, and processing of solid waste and for safe and environmentally sound solid waste management and disposal;

(e) Assist in the development of solid waste reduction and recycling programs to properly manage solid waste, conserve resources, and supply energy; and

(f) Provide for the education of the general public and the training of solid waste management professionals to reduce the production of solid waste, to ensure proper processing and disposal of solid waste, and to encourage recycling and solid waste reduction.

(2) The state solid waste management program shall be initiated by the department by February 1, 1989, and the department shall begin adoption of rules necessary to implement the program by December 31, 1988. The program shall be updated at least once every 3 years.

(3) The state solid waste management program shall include, at a minimum:

(a) Procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.

(b) Provisions for the continuation of existing effective regional resource recovery, recycling, and solid waste management facilities and programs.

(c) Criteria and selection procedures for grants from the Solid Waste Management Trust Fund to counties, municipalities, or groups of counties or municipalities.

(d) Planning guidelines and technical assistance to counties and municipalities to aid in meeting the municipal solid waste reduction goals established in local solid waste management programs required in s. 403.706.

(e) Planning guidelines and technical assistance to counties and municipalities to develop and implement recycling programs pursuant to ss. 403.706 and 403.7064.

(f) Technical assistance to and guidelines for counties and municipalities in determining the full cost for solid waste management as required in s. 403.7049(1).

(g) Planning guidelines and technical assistance to counties and municipalities to develop and implement programs for alternative disposal or processing or recycling of the solid wastes prohibited from disposal in landfills under s. 403.708(7) and for special wastes.

(h) A public education program, to be developed in cooperation with the Department of Education, local governments, other state agencies, and business and industry organizations, to inform the public of the need for and the benefits of recycling of solid waste and reducing the amounts of solid and hazardous waste generated and disposed of in the state. The public education program shall be implemented through public workshops and through the use of brochures, reports, public service announcements, and other materials. The objective of the program shall be to:

1. Promote increased public awareness of and interest in environmentally sound solid waste management;

2. Encourage better-informed decisions on solid waste management by business, industry, local governments, and the public;

3. Provide the public with practical information about ways in which households and other institutions and organizations can develop, implement, and finance recycling and solid waste reduction programs, including the use of recyclable materials and the composting of yard trash; and

4. Encourage consumers to consider packaging volume and type in making purchasing decisions to help eliminate excess or wasteful packaging and the use of environmentally dangerous or unsound materials.

(4) The department shall prepare by October 1, 1989, and every year thereafter, a report on the status of solid waste management efforts in the state. The report shall include, at a minimum:

(a) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the state projected for the 20-year period beginning on the effective date of this act.

(b) The total amounts of solid waste generated, recycled, and disposed of and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the report is published.

(c) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.

(d) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goals established in each county's local solid waste management program.

(e) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for local governments and state agencies to implement to meet the requirements of this part.

(f) An evaluation of the markets for recycled materials and the success of state, local, and private industry efforts to enhance the markets for such materials.

(g) Recommendations to the Governor and the Legislature to improve the management and recycling of solid waste in this state.

Section 10. Section 403.706, Florida Statutes, is amended to read:

403.706 Local *solid waste* ~~resource recovery and~~ management programs.—

(1) *Each county, or two or more counties acting under an interlocal agreement pursuant to s. 163.01, shall prepare* ~~Within 3 years after the department adopts the state resource recovery and management program, there shall be established, by special act of the Legislature or interlocal agreement between counties, between municipalities, or between municipalities and counties, in those areas designated under the rule adopted pursuant to s. 403.705,~~ a local *solid waste* ~~resource recovery and~~ management program which shall be *submitted for approval to* ~~approved by~~ the department *by the time specified by the department by rule. Counties scheduled to submit their local government comprehensive plans to the state land planning agency after March 1, 1990, shall submit their local solid waste management programs to the department by the same dates their comprehensive plans are scheduled to be submitted to the state land planning agency. Counties scheduled to submit their local government comprehensive plans to the state land planning agency on or before March 1, 1990, shall submit their local solid waste management programs to the department according to submittal dates established by rule by the department. The department shall begin adoption of the rule by December 31, 1988. The rule shall require the submittal of local solid waste management programs no earlier than 18 months and no later than 36 months after the effective date of this act. The program shall provide* ~~and which shall implement the provisions of the state program by adequately providing~~ for the ~~receiving in bulk,~~ storage, separation, processing, recovery, recycling, *and* ~~or~~ disposal of solid waste generated or existing within the boundaries of the county *and within the* ~~or~~ incorporated limits of the *municipalities within the boundaries of the county* ~~municipality or in the area served thereby~~. *Each county shall ensure, to the maximum extent possible, that municipalities within its boundaries cooperate in the preparation and implementation of the county's local solid waste management program through interlocal agreements pursuant to s. 163.01 or other means provided by law. Nothing in the county's local solid waste management program shall affect the authority of a municipality to franchise or otherwise provide for the collection of solid waste generated within the boundaries of the municipality.*

(2) The local solid waste management program shall be designed to provide for sufficient reduction of the amount of solid waste generated within the county and the municipalities within its boundaries in order to meet goals for the reduction of municipal solid waste prior to the final disposal or the incineration of such waste at a solid waste management facility. The goals shall provide, at a minimum, that the amount of municipal solid waste that would be disposed of in the absence of municipal solid waste recycling efforts undertaken within the county and the municipalities within its boundaries is reduced by:

(a) At least 20 percent by the end of the fourth full year following the effective date of this act;

(b) At least 30 percent by the end of the sixth full year following the effective date of this act; and

(c) At least 35 percent by the end of the eighth full year following the effective date of this act.

In determining whether the municipal solid waste reduction goals established by this subsection have been achieved, no more than one-half of the goal may be met with yard trash that is removed from the total amount of municipal solid waste that would be disposed of in the absence of municipal solid waste reduction efforts.

(3) The local solid waste management program shall, at a minimum, contain the following:

(a) A description and explanation of the general type and the weight of solid waste generated within the county's boundaries and the general type and the weight of solid waste that is estimated will be generated within the county's boundaries in the 20-year period beginning on the effective date of this act.

(b) An identification and description of the facilities where solid waste is being disposed of or processed, the remaining available permitted capacity of such facilities, any anticipated increases in the capacity of such facilities, and the nature and extent of any facility designation made pursuant to paragraph (9)(b).

(c) An estimation of the processing or disposal capacity needed for the solid waste that will be generated in the county in the 20-year period beginning on the effective date of this act.

(d) A general analysis of the effect of current and planned recycling on solid waste generated within the county.

(e) A description and evaluation of solid waste that could be recycled, including, but not limited to:

1. The type and the weight of solid waste that could be recycled, giving consideration at a minimum to the following materials: glass, aluminum, steel and bimetallic materials, office paper, yard trash, newsprint, corrugated paper, and plastics.

2. Existing recycling operations, whether public or private, and the type and the weight of materials recycled by the operations.

3. The compatibility of recycling with other solid waste processing or disposal methods, describing anticipated and available markets for materials collected through recycling programs, which markets ensure that those materials are returned to use in the form of raw materials or products.

4. Estimated costs of operating and maintaining a recycling program, estimated revenue from the sale or use of materials, and avoided costs of disposal or processing based on a strategy designed to minimize the total number of disposal sites within the county.

(f) A general description of the type, mix, and size of and the expected costs and proposed methods of financing the solid waste management facilities, recycling programs, or solid waste reduction programs that are proposed for the processing or disposal of the solid waste that is generated within the county's boundaries within the 20-year period beginning on the effective date of this act. For every proposed facility or program, the program shall contain at least the following:

1. An explanation of the reason for selecting such facility or program; and

2. A showing that provisions were made for anticipated solid waste reduction or recycling in designing the size of any proposed solid waste management facility.

(g) An identification of the location within a county where each solid waste management facility will be located, including an identification of proposed sites or the process for choosing sites based on a strategy designed to minimize the total number of disposal sites within the county.

(h) An explanation of how the local solid waste management program relates to:

1. The future land use elements; sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge elements; intergovernmental coordination elements; and capital improvements elements of the local government comprehensive plans prepared pursuant to part II of chapter 163 by the county and the municipalities within its boundaries; and

2. The appropriate sections of the comprehensive regional policy plan of the regional planning council of which the county is a member.

(i) Local government solid waste disposal facilities shall not be required to accept or be prohibited from accepting coal ash from investor-owned electric utility generating facilities.

(4)(a) The local solid waste management program shall contain a recycling program for at least the service area of the county. The recycling program shall consist of:

1. Establishment of a system for separating and collecting recyclable materials prior to disposal or incineration located at a solid waste management facility or a solid waste disposal area owned or operated by or on behalf of the county;

2. Establishment of a system of places within the county for separating and collecting recyclable materials;

3. Establishment of a program for periodic collection of recyclable material from solid waste collection service customers; or

4. Establishment of an alternative method for collecting recyclable material that is approved by the department.

In addition to yard trash, the recycling program shall involve the recycling of at least four materials to be chosen from the following: glass, aluminum, steel and bimetallic materials, office paper, newsprint, corrugated paper, and plastics.

(b) The recycling program shall contain, at a minimum:

1. An explanation of the manner in which the recycling program will be implemented.

2. A description of the recyclable materials which are the focus of the program.

3. A description of the responsibility of key personnel in the solid waste collection and disposal process in implementing the recycling program.

4. A timetable for the development and implementation of the recycling program.

5. Methods for providing public education and information about the recycling program.

6. Any contracts or agreements entered into or summaries of contemplated agreements or contracts to develop and implement the recycling program.

7. The estimated costs of the recycling program, including a description of the estimated avoided costs of solid waste disposal or processing resulting from the implementation of the recycling program.

The recycling program shall serve as the primary means of meeting the goals established for municipal solid waste reduction in the local solid waste management program.

(c) The county shall, at least 60 days prior to the initiation of the recycling program and at least once every 6 months thereafter, notify all residential and nonresidential solid waste management customers within at least its service area of the requirements of the program.

(d) A county may enter into a written agreement with other persons, including persons transporting solid waste on the effective date of this act, to undertake to fulfill some or all of the county's responsibilities under this subsection.

(e) In the development and implementation of its recycling program, a county shall enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county to undertake the recycling responsibilities imposed upon the county under this section. If the county and the franchisee fail to reach an agreement within 60 days from the initiation of such negotiations, the county may solicit proposals from other persons to undertake the recycling responsibilities imposed upon the county under this section. Upon the determination of the lowest responsible proposal, the exclusive franchisee shall be given the option of undertaking the responsibilities of the county consistent with the terms of that proposal. If the exclusive franchisee fails to exercise this option within 10 days, the county may undertake, or enter into a written agreement with the person who submitted the lowest responsible proposal to undertake, the recycling responsibilities of the county under this section, notwithstanding the exclusivity of such franchise agreement.

(f) In developing and implementing its recycling program, a county shall give consideration for the collection, marketing, and disposition of recyclable materials to persons engaged in the business of recycling on the effective date of this act, whether or not the persons were operating for profit. Counties are encouraged to use for-profit and nonprofit organizations in fulfilling their responsibilities under this subsection.

(5) A county and the municipalities within the county's boundaries may jointly develop the county's local solid waste management program, including the recycling program required as part of the county's local solid waste management program; provided that the county and each such municipality must enter into a written agreement to jointly develop a recycling program. A municipality may meet the requirements of s. 403.7064 for municipal recycling programs by jointly developing a recycling program with the county within which the municipality is located. If a municipality does not participate in jointly developing a recycling program with the county within which it is located, the county may require the municipality to provide information on recycling efforts undertaken within the boundaries of the municipality in order to determine whether the county's goals for municipal solid waste reduction are being achieved.

(6) The local solid waste management program shall include a description of a public education program to inform the public of the benefits of environmentally sound solid waste management and the benefits of solid waste reduction and recycling.

(7) The local solid waste management program shall include a program for the management of special wastes. Local governments shall work with the construction industry to plan for and identify suitable construction and demolition debris disposal sites.

(8) In preparing its local solid waste management program, a county shall use the same population figures and projections used in preparing its comprehensive plan and the population figures and projections used in preparing the comprehensive plans of the municipalities within its boundaries. In addition, the county may use any other statistics, analyses, or projections used in preparing its comprehensive plan and the comprehensive plans of the municipalities within its boundaries. Municipalities shall cooperate with counties by providing the counties with population projections and other information used in preparing the municipalities' comprehensive plans.

(9)~~(2)~~(a) Each local *solid waste* ~~resource recovery and~~ management program established pursuant to this section shall include an implementation schedule ~~which provides a timetable~~ indicating when the total program, as well as its component parts, will be carried out. The implementation *schedule* ~~schedules~~ shall:

1. Be mutually agreed upon by the *counties and municipalities* ~~local governments~~ participating in the development of the program ~~plan and the department~~.

2. Expedite and accomplish, within reason and practicality, the provisions of the program ~~plan~~.

3. Be adhered to by *the county and the municipalities within its boundaries* ~~each local program~~.

4. Be monitored by the department to assure compliance.

5. Be modified only upon approval by the department of a request of a *county or upon the request of a municipality within the county's boundaries* ~~local program~~, showing sufficient evidence and justification for a modification.

(b) It is the policy of the state that a county and its municipalities *or two or more counties* may jointly determine, through an interlocal agreement pursuant to s. 163.01 or by requesting the passage of special legislation, which local governmental agency shall administer the local *solid waste* ~~resource recovery and~~ management program. *Until an interlocal agreement has been effectuated or a special act has become law that provides otherwise,* ~~If, on December 1, 1978, no interlocal agreement has been effectuated and no special act has become law,~~ the board of county commissioners *of each county* shall administer and be responsible for the local *solid waste management* ~~resource recovery~~ program~~, except sludge from a waste treatment works, air pollution control facility, or water supply treatment plant or other liquid, semisolid, or contained gaseous material,~~ for the entire county. *If no interlocal agreement has been effectuated between a county and the municipalities within its boundaries, the county may require the municipalities to use only the solid waste management facility specified by the county, regardless of whether the county owns or operates the facility. This provision shall not affect the present or future authority of a local government that undertakes resource recovery of solid waste to control the flow of solid waste pursuant to s. 403.713. However, a municipality may continue to use a solid waste management facility which has been permitted by the department prior to or on the effective date of this act. In the absence of an interlocal agreement between the county and the municipality, the department's approval of a facility designation shall be upheld unless a municipality demonstrates by a preponderance of the evidence that the designation, when compared to alternatives proposed during the local solid waste management planning process by the municipality, places a significantly higher and disproportionate financial burden on the citizens of the municipality when compared to the financial burden placed on persons residing within the county but outside of the municipality. A municipality may use a facility solely for recycling that is different than a solid waste management facility specified by the county. The fees charged to municipalities at a solid waste management facility specified by the county shall not be greater than the fees charged to other users of the facility except as provided in s. 403.7049(4). Solid waste management fees collected on a countywide basis shall be used to fund solid waste management services provided countywide.*

(10) The county shall provide written notice to all municipalities within the county when local solid waste management program development begins and shall provide periodic written progress reports to the municipalities concerning the preparation of the local solid waste management program.

(11)~~(c)~~ Each local *solid waste* ~~resource recovery and~~ management program shall be reviewed at least once ~~in~~ every ~~5~~ *3* years. Each county and its municipalities, *or counties which have entered into an interlocal agreement pursuant to s. 163.01 for the purposes of this section,* shall be responsible for updating *the local solid waste management* ~~their local~~ program in a manner consistent with the rules adopted by the department.

~~(d) The department shall review, at least once in every 3 years, those counties or municipalities not required to plan for resource recovery under the provisions of subsection (4) to determine if sufficient solid waste is generated to make it economically practical to plan for, and engage in, resource recovery and management programs.~~

(12)~~(3)~~ Nothing in this act shall be construed to prevent the governing body of any county or municipality from providing by ordinance or regulation for *solid waste* ~~resource recovery and~~ management requirements which are stricter or more extensive than those imposed by the state *solid waste* ~~resource recovery and~~ management program and rules, regulations, and orders issued thereunder.

(13)~~(4)~~ Nothing in this act or in any rule adopted by any agency shall be construed to require any county or municipality to participate in any *regional solid waste management or regional* resource recovery program until the governing body of such county or municipality has determined that participation in such a program is economically feasible for that county or municipality. Nothing in this act or in any special or local act or in any rule adopted by any agency shall be construed to limit the authority of a municipality to regulate the disposal of solid waste within its boundaries or generated within its boundaries so long as *a facility for* any such disposal ~~facility~~ has been approved by the department, unless the municipality is included within a *solid waste management* ~~resource recovery~~ program *prepared pursuant to this section and* created by interlocal agreement or special or local act, *or unless the county within whose boundaries the municipality lies requires the municipality to use certain solid waste management facilities as provided in paragraph (9)(b).* ~~If, on December 1, 1978,~~ bonds *have* ~~had~~ been issued to finance a resource recovery or management program *or a local solid waste management program* in reliance on state law granting to *a* ~~said~~ county the responsibility for the resource recovery or management program *or a local solid waste management program,* nothing herein shall permit any governmental agency to withdraw from said program if said agency's participation is necessary for the financial feasibility of the project, so long as said bonds are outstanding.

(14)~~(5)~~ The time limit set out in subsection (1) *may* ~~shall~~ be extended *for up to 1 year* by the department upon application to the department by the local unit of government involved and on due cause shown that good faith efforts to meet the requirements of this act have been and are being made.

(15)~~(6)~~ Nothing in this chapter or in any rule adopted by any state agency hereunder shall require any person to subscribe to any private solid waste collection service.

(16)~~(7)~~ To effect the purposes of this part, counties and municipalities are authorized, in addition to other powers granted pursuant to this part:

(a) To contract with persons to provide resource recovery services or operate resource recovery facilities on behalf of the county or municipality.

(b) To indemnify persons providing resource recovery services or operating resource recovery facilities for liabilities or claims arising out of the provision or operation of such services or facilities that are not the result of the sole negligence of the persons providing such services or operating such facilities.

(c) To waive sovereign immunity and immunity from suit in federal court by vote of the governing body of the county or municipality to the extent necessary to carry out the authority granted in paragraphs (a) and (b) of this subsection, notwithstanding the limitations prescribed in s. 768.28.

(17) In the event the power to prepare, adopt, and implement a local solid waste management program pursuant to ss. 403.706-403.7063 or a recycling program pursuant to s. 403.7064 has been granted to a special district or other entity by special act or interlocal agreement, the duty of a county or municipality to prepare, adopt, and implement such local solid waste management program or recycling programs under the requirement of said sections shall be deemed the duty of such special district or other entity to the extent of the grant of such power and responsibility. To the same extent, such special district or other entity shall be eligible for grants awarded pursuant to this act.

(18) On and after July 1, 1989, each operator of a solid waste management facility, except existing facilities which will not be in use 3 years after the effective date of this act, shall weigh all solid waste when it is received, or measure the volume of such waste in accordance with other methods or formulae approved by the department. The scale used to measure the solid waste shall conform to the requirements of chapter 531 and any rules promulgated thereunder.

Section 11. Section 403.7061, Florida Statutes, is created to read:

403.7061 Local solid waste management program development.—

(1) Prior to the adoption of the local solid waste management program by a county, the county shall submit copies of the proposed program for comment to the department, all municipalities within the county, and the appropriate regional planning council. The period for comment shall begin 90 days prior to the scheduled adoption of the program. The county shall hold at least two public hearings on the proposed program during this period.

(2) The county shall adopt by resolution the local solid waste management program within 30 days from the end of the public comment period. Within 5 days following adoption of the program by the county, the program shall be sent to the municipalities within the county for ratification. Elements of a solid waste management program that have been agreed to by a municipality as part of an interlocal agreement or other agreement shall be deemed ratified for purposes of this section. If a municipality does not act on the program within 60 days of its submission to the municipality, it shall be deemed to have ratified the program. A municipality which refuses to ratify the program shall prepare a written statement of objections for not ratifying the program. If more than one-half of the county's municipalities representing more than one-half of the citizens residing in the incorporated areas within the county ratify the program, then the county within 10 days of ratification shall submit the program to the department for approval.

(3) If the county's solid waste management program is not ratified by the municipalities within the county as provided in subsection (2), the county shall adopt a revised program within 60 days after the end of the time period during which municipalities may ratify the program. The county shall amend the program to address the objections stated by the municipalities or provide a written response to the municipalities with the revised program. Within 5 days following adoption of a revised program by the county, the revised program shall be sent to the municipalities within the county for ratification. If a municipality does not act on the county's revised program within 45 days from its submission to the municipality, the revised program shall be deemed to be ratified. If more than one-half of the municipalities within the county representing more than one-half of the citizens residing in the incorporated areas of the county ratify the revised program, then the county within 10 days of ratification shall submit the revised program to the department for approval. A municipality which refuses to ratify the revised program shall prepare a written statement of objections for not ratifying the revised program.

(4) If the revised solid waste management program is not ratified as provided in subsection (3), the county shall submit the revised program to the department within 10 days from the end of the time period within which the municipalities may ratify the revised program. The revised program shall be accompanied by the objections stated by the municipalities that did not ratify the revised program.

(5) If the county does not develop, adopt, and implement a local solid waste management program as provided in this act, the county shall not be eligible for further grants from the Solid Waste Management Trust Fund and the department may request the withholding of state funds for the county pursuant to s. 403.7068.

(6) The department shall determine that a county is ineligible for grants from the Solid Waste Management Trust Fund if the solid waste reduction goals set forth in s. 403.706 have not been met, unless the department determines that the county has achieved a degree of compliance that is reasonable considering the limitations and obstacles encountered and that the county has made substantial efforts toward achieving the goals.

(7) The department may reduce or modify the municipal solid waste reduction goals that a county is required to achieve pursuant to s. 403.706(2), if the county demonstrates to the department that:"

(a) The achievement of the goals set forth in s. 403.706(2) would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goals shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goals on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to s. 403.706(4).

(8) A county listed in s. 17-7, F.A.C. which was required to submit to the department a local resource recovery and management program shall revise its existing local resource recovery and management program if necessary to meet the requirements of this act. The county shall develop its revised program in accordance with this section and shall submit its revised program to the department for approval.

Section 12. Section 403.7063, Florida Statutes, is created to read:

403.7063 Review of local solid waste management programs.—

(1) Upon receiving an adopted local solid waste management program, the department shall approve or disapprove the program. Such approval or disapproval shall constitute final agency action.

(2) The department shall approve any local solid waste management program which:

(a) Is complete and accurate and meets the requirements of s. 403.706.

(b) Provides for sufficient reduction of municipal solid waste to meet the municipal solid waste reduction goals established pursuant to s. 403.706(2).

(c) Provides for the processing and disposal of solid waste in a manner that is consistent with the requirements of this act, this chapter, or any rules promulgated hereunder.

(d) Provides for the processing and disposal of solid waste for at least the 20-year period beginning on the effective date of this act.

(e) Contains a recycling program which is complete and accurate and which provides every person within the service area of the county with the opportunity to recycle.

(f) Contains a program for public education on the benefits of solid waste reduction and environmentally sound solid waste management.

(g) Contains a program for the management of special wastes.

(3) If the local solid waste management program is approved by the department, the county shall implement the program. Upon approval, the county may continue to apply to the department for grants from the Solid Waste Management Trust Fund established pursuant to s. 403.709.

(4) If the local solid waste management program is disapproved, the department shall return the program to the county along with a written statement of the conditions that should be met for the program to be approved. Upon receipt of the disapproved program and the department's statement of conditions, the county may:

(a) Revise the program to address the conditions stated by the department and submit the revised program for review and approval pursuant to subsection (1); or

(b) Refuse to revise the program to address the conditions stated by the department.

If its program is disapproved, the county shall not be eligible for further grants from the Solid Waste Management Trust Fund until such time as a program is approved by the department.

Section 13. Section 403.7064, Florida Statutes, is created to read:

403.7064 Municipal recycling programs.—

(1) Each municipality that has a population of 5,000 or more shall develop and implement a recycling program within its service area. Population of municipalities shall be determined by the most recent population census determination under s. 186.901. A municipality that has a population of less than 5,000 is not required to develop a recycling program but may, at the discretion of its governing body, develop and implement a recycling program and apply to the department for grants from the Solid Waste Management Trust Fund established pursuant to s. 403.709. Two or more municipalities may enter into interlocal agreements to perform some or all of the municipalities' responsibilities under this section. A municipality may meet the requirements of this section by jointly developing a recycling program with the county within which the municipality is located under the provisions of s. 403.706(5).

(2) Municipalities scheduled to submit their local government comprehensive plans to the state land planning agency after March 1, 1990, shall submit their municipal recycling programs to the department no later than the same dates their comprehensive plans are scheduled to be submitted to the state land planning agency. Municipalities scheduled to submit their local government comprehensive plans to the state land planning agency on or before March 1, 1990, shall submit their municipal recycling programs to the department no later than the submittal dates established by rule by the department. The department shall begin adoption of the rule by December 31, 1988. The rule shall require the submittal of local municipal recycling programs no earlier than 18 months and no later than 36 months after the effective date of this act.

(3) The recycling program shall consist of:

(a) Establishment of a system for separating and collecting recyclable materials prior to disposal or incineration located at a solid waste management facility or a solid waste disposal area owned or operated by or on behalf of the municipality;

(b) Establishment of a system within the service area of the municipality for separating and collecting recyclable materials;

(c) Establishment of a program for periodic collection of recyclable materials from solid waste collection service customers within the service area of the municipality; or

(d) Establishment of an alternative method for collecting recyclable materials that is approved by the department.

In addition to yard trash, the recycling program shall involve the recycling of at least four materials to be chosen from the following: glass, aluminum, steel and bimetallic materials, office paper, newsprint, corrugated paper, and plastic.

(4) Each recycling program shall contain, at a minimum:

(a) An explanation of the manner in which the recycling program will be implemented.

(b) A description of the recyclable materials which are the focus of the program.

(c) A description of the responsibility of key personnel in the solid waste collection and disposal process in implementing the recycling program.

(d) A timetable for the development and implementation of the recycling program.

(e) Methods for providing public education and information about the recycling program.

(f) Any contracts or agreements entered into or summaries of contemplated contracts or agreements to develop and implement the recycling program.

(g) A description of anticipated and available markets for materials collected through recycling programs, which markets ensure that those materials are returned to use in the form of raw materials or products.

(h) The estimated costs of the program, including a description of the estimated avoided costs of solid waste disposal resulting from the implementation of the program.

The recycling program must be designed to assist in meeting the goals established for municipal solid waste reduction in the local solid waste management program of the county within which the municipality is located.

(5) Each municipality shall make its proposed recycling program available for public review and comment. The period for review and comment shall begin 90 days prior to the scheduled adoption of the program. The municipality shall hold at least two public hearings on the proposed program during this period.

(6) Each municipality subject to this section shall, at least 60 days prior to the initiation of the recycling program and at least once every 6 months thereafter, notify all residential and nonresidential solid waste management customers within its service area of the requirements of the program.

(7) A municipality may enter into a written agreement with other persons, including persons transporting solid waste on the effective date of this act, to undertake to fulfill some or all of the municipality's responsibilities under this section.

(8) In the development and implementation of its recycling program, a municipality shall enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a municipality to undertake the recycling responsibilities imposed upon the municipality under this section. If the municipality and the franchisee fail to reach an agreement within 60 days from the initiation of such negotiations, the municipality may solicit proposals from other persons to undertake the recycling responsibilities imposed upon the municipality under this section. Upon the determination of the lowest responsible proposal, the exclusive franchisee shall be given the option of undertaking the recycling responsibilities of the municipality consistent with the terms of that proposal. If the exclusive franchisee fails to exercise this option within 10 days, the municipality may undertake, or enter into a written agreement with the person who submitted the lowest responsible proposal to undertake, the recycling responsibilities of the municipality under this section, notwithstanding the exclusivity of such franchise agreement. The foregoing notwithstanding, nothing in this section shall be construed to give the franchisee a right of first refusal to contract with the municipality for the operation of a volume reduction plant or other processing facility for the purpose of processing, shredding, recycling or storing waste tires. The municipality may contract with any responsible contractor for this purpose.

(9) In developing and implementing its recycling program, a municipality shall give consideration for the collection, marketing, and disposition of recyclable materials to persons engaged in the business of recycling on the effective date of this act, whether or not the persons are operating for profit. Municipalities are encouraged to use for-profit and nonprofit organizations in fulfilling their responsibilities under this section.

(10) In preparing its recycling program, a municipality shall consult with the county within which it is located to determine the most appropriate way to develop and implement the recycling program and to meet

the municipal solid waste reduction goals established in the local solid waste management program of the county within which the municipality is located.

(11)(a) Each municipality shall submit its recycling program to the department for approval unless the municipality has entered into a written agreement with the county within which the municipality is located to jointly develop a recycling program under the provisions of s. 403.706(5). The department shall approve any recycling program which:

1. Is complete and accurate and meets the requirements of this section; and

2. Provides the opportunity to recycle to every person within the service area of the municipality.

(b) If the recycling program is approved, the municipality shall implement the program. Upon approval, the municipality may continue to apply to the department for grants from the Solid Waste Management Trust Fund established pursuant to s. 403.709.

(c) If the recycling program is disapproved, the department shall return the program to the municipality along with a written statement of the conditions that should be met for the program to be approved. Upon receipt of the disapproved program and the statement of conditions, the municipality may:

1. Revise the program to address the conditions stated by the department and submit the revised program for review and approval pursuant to paragraph (a); or

2. Refuse to revise the program to address the conditions stated by the department.

If its program is disapproved, the municipality shall not be eligible for further grants from the Solid Waste Management Trust Fund established pursuant to s. 403.709 until such time as a program is approved by the department.

(12) If a municipality does not develop, adopt, and implement a recycling program as provided in this section, the municipality shall not be eligible for grants from the Solid Waste Management Trust Fund and the department may request the withholding of state funds for the municipality pursuant to s. 403.7068.

Section 14. Section 403.7065, Florida Statutes, is amended to read:

403.7065 Procurement of *products or materials with recycled content* ~~recovered materials~~.—

(1) Except as provided in s. 287.05, any state agency or agency of a political subdivision of the state which is using state funds, or any person contracting with any such agency with respect to work performed under contract, is required to procure *products or materials with recycled content* ~~recovered materials~~ when those *products or* materials are available at reasonable prices. A decision not to procure such items must be based on a determination that such procurement:

(a)~~(1)~~ Is not ~~reasonably~~ available within a reasonable period of time; *or*

(b)~~(2)~~ Fails to meet the performance standards set forth in the applicable specifications or fails to meet the reasonable performance standards of the agency.~~; or~~

~~(3) Is only available at an unreasonable price.~~

When the requirements of s 287.05 are met, agencies shall be subject to the procurement requirements of that section for procuring products or materials with recycled content.

(2) For the purposes of this section, "recycled content" means materials that have been recycled that are contained in the products or materials to be procured, including, but not limited to, paper, aluminum, glass, and composted material. The term does not include internally generated scrap that is commonly used in industrial or manufacturing processes or waste or scrap purchased from another manufacturer who manufactures the same or a closely related product.

Section 15. Section 403.7068, Florida Statutes, is created to read:

403.7068 Withholding of state funds.—In addition to any other penalties provided by law, the department may notify the State Treasurer to withhold payment of all or a portion of funds payable to a county or municipality by the department from the General Revenue Fund or by the department from any other state fund if:

(1) A county has not developed, adopted, and implemented a local solid waste management program pursuant to ss. 403.706-403.7063; or

(2) A municipality has not developed, adopted, and implemented a recycling program pursuant to s. 403.7064.

Upon notification, the State Treasurer shall hold in escrow such moneys due to such county or municipality until such time as the department notifies the State Treasurer that the county has adopted and is implementing a solid waste management program or that the municipality has adopted and is implementing a recycling program.

Section 16. Section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(1) No *solid waste* ~~resource recovery and~~ management facility or site may be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. The department shall pursue reasonable time frames for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule establishing performance standards for construction and closure of solid waste land disposal areas, sites, and facilities. The standards shall allow flexibility in design and consideration for site-specific characteristics.

(2) Except as provided in s. 403.722(6), no permit under this section is required for the following activities, provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, *provided such waste is either from their residential property or from normal farming operations as defined in rules of the department or is rocks, soils, trees, tree remains, and other vegetative matter which normally results from land development operations.* ~~However, the department may by rule require any such person to file a written notification to the department of the type of solid waste being disposed of, the location of disposal, and methods of solid waste management being performed. However, no waste, other than construction and normal demolition debris, and normal farming operations, collected from a noncontiguous property shall be disposed of without a permit as required by subsection (1).~~

(b) Disposal or storage by persons of solid waste in dumpsters resulting from their own activities on their property or on leased or rented property, provided that the solid waste in such dumpsters is collected at least once a month.

(c)~~(b)~~ *Disposal by persons of solid waste resulting from their own activities on their property, provided the environmental effects of such disposal on groundwaters and surface waters are:*

1. Addressed or authorized by a site certification order issued under part II of this chapter or a permit issued by the department pursuant to this chapter or rules adopted pursuant thereto; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. ~~Normal farming operations.~~

(d) Disposal by persons of solid waste resulting from their own activities on their own property, provided such waste was disposed of prior to October 1, 1988.

(e) The use of clean debris as fill material in any area. However, nothing in this paragraph shall exempt any person from obtaining a dredge and fill permit pursuant to this chapter. Nothing in this paragraph shall affect a person's responsibility to dispose of clean debris in permitted areas if the clean debris is not to be used as fill material.

(f)~~(c)~~ Solid waste disposal areas limited solely to the disposal of construction and demolition debris~~.~~*, provided that all such areas must be covered, graded, and vegetated as necessary when disposal is completed. For situations where the department determines that additional regulation of offsite disposal is appropriate, the department shall, by Decem-*

ber 31, 1988, initiate rulemaking to provide for a general permit pursuant to s. 403.814 for disposal of construction and demolition debris for offsite disposal areas. The department shall not require the applicant to publish the notice described in s. 403.814(3). The exemption provided by this paragraph is superseded by such general permit 90 days after implementing rules become effective, and shall remain superseded so long as these rules remain in effect. The department is authorized to delegate its authority under this paragraph to local governments, where appropriate, in accordance with s. 403.182. Such general permits shall include, at a minimum, the following requirements:

1. Public access to the disposal site is controlled through fencing or other appropriate means until the site is closed as provided in subparagraph 4.;

2. Provisions are made for proper disposal of solid waste which is not construction and demolition debris;

3. The department has been advised of the location of the site and has been given permission to inspect the site during normal business hours; and

4. Provisions are made for final cover, grading, and vegetation to prevent erosion.

Solid waste management permits issued prior to October 1, 1988, shall not be affected by this section.

(3) As used in this section, "construction and demolition debris" means materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project, and including trees and vegetation from land clearing for a construction project. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as other than construction and demolition debris.

(4)~~(3)~~ All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, shall be construed to include the control of *solid waste* ~~resource recovery and~~ management facilities.

(5)~~(4)~~ When application for a permit for a ~~Class I or Class II~~ solid waste disposal area is made, it is the duty of the department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the area is to be located. The water management district shall prepare a report as to the impact on water resources. This report shall *contain the district's recommendations as to the disposition of the application and shall* be submitted to the department no later than 30 days prior to the deadline for final agency action by the department. *Water management districts may not regulate solid waste disposal unless district rules are approved by the department.*

(6)~~(5)~~ The department may not issue a construction permit pursuant to this part for a new sanitary landfill within 3,000 feet of Class I surface waters.

(7)~~(6)~~ The department may issue a construction permit pursuant to this part only to a solid waste land disposal area, site, or facility which provides the conditions necessary to control the movement of wastes or waste constituents into surface or ground waters or the atmosphere *and which will be operated, maintained, and closed by qualified, properly trained supervisory and operating personnel.* Such facility shall, if necessary:

(a) Use natural or artificial barriers which are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base which is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires shall not be allowed to be used as a means of disposal at such landfill.

(8)~~(7)~~ *Prior to application for a construction permit, an applicant shall designate to the department temporary backup disposal areas or processes that are to be at the site of the solid waste management facility. Failure to designate temporary backup disposal areas or processes shall result in a denial of the construction permit.* ~~Prior to application for a construction permit, after January 1, 1986, applicants shall give consideration to those plans for resource recovery and management facilities, the purpose of which is resource recovery, that include temporary backup disposal areas or processes that are at the site of the facility itself~~.

(9) After July 1, 1990, each person who transports or intends to transport biohazardous waste within the state shall register with the department before engaging in such transport.

(10) The department may refuse to issue a permit to an applicant who by past conduct has repeatedly violated pertinent statutes, rules, or orders or permit terms or conditions relating to any solid waste management facility and who is deemed to be irresponsible as defined by department rule. For the purposes of this subsection, an applicant includes the owner or operator of the facility, or if the owner or operator is a business entity, a parent of a subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than 50 percent of the stock of the corporation.

(11) Notwithstanding any special or general law to the contrary, no county or municipality shall adopt or enforce regulations that discriminate against privately owned solid waste management facilities because they are privately owned. However, nothing in this subsection shall interfere with the county's or municipality's ability to control the flow of solid waste within its boundaries pursuant to this chapter.

Section 17. Section 403.708, Florida Statutes, is amended to read:

403.708 Prohibition; penalty.—

(1) No person shall:

(a) Place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the department and consistent with applicable approved programs of counties or municipalities. However, nothing in this act shall be construed to prohibit the disposal of solid waste without a permit as provided in s. 403.707(2).

(b) Burn solid waste except in a manner prescribed by the department and consistent with applicable approved programs of counties or municipalities.

(c) Construct, alter, modify, or operate a *solid waste* ~~resource recovery and~~ management facility or site without first having obtained *from the department any permit required by s. 403.707* ~~a valid permit from the department as provided in s. 403.707~~.

(d) Transport biohazardous waste without first having registered with the department as provided in s. 403.707(9).

(2) On or after October 1, 1990, no person shall distribute, sell, or expose for sale in this state, any product packaged in a container or packing material manufactured with fully halogenated chlorofluorocarbons (CFC). Producers of containers or packing material manufactured with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials which are environmentally compatible.

(3) On or after July 1, 1990, no person shall distribute, sell, or expose for sale in this state any plastic container product unless it has a molded label indicating the plastic resin used to produce the plastic container product. The label shall appear on the bottom of the plastic container product and be clearly visible. This label shall consist of a number placed inside a triangle, and letters placed below the triangle. The numbers and letters shall be as follows:

1 — PET (polyethylene terephthalate)

2 — HDPE (high density polyethylene)

3 — V (vinyl)

4 — LDPE (low density polyethylene)

5 — PP (polypropylene)

6 — PS (polystyrene)

7 — OTHER (includes multilayer)

(4)~~(2)~~ The packaging of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974, *other than expressly provided in this act.*

(5)~~(3)~~ Violations of the state *solid waste* ~~resource recovery and~~ management program or rules, regulations, permits, or orders issued thereunder by the department, and violations of approved local programs of counties or municipalities, or rules, regulations, or orders issued thereunder, shall be punishable by a civil penalty as provided in s. 403.141.

(6)~~(4)~~ The department or any county or municipality may also seek to enjoin the violation of, or enforce compliance with, this act or any program adopted hereunder as provided in s. 403.131.

(7) In accordance with the following schedule, no person who knows or who should know of the nature of such solid waste shall dispose of such solid waste in landfills:

(a) Lead-acid, mercury, and nickel-cadmium batteries, after January 1, 1989 Lead-acid batteries also shall not be disposed of in any waste-to-energy facility after January 1, 1989. To encourage proper collection and recycling, all persons who sell lead-acid batteries at retail shall accept used lead-acid batteries as trade-ins for new lead-acid batteries.

(b) Used oil, after January 1, 1990.

(c) Whole scrap tires, after January 1, 1990. Disposal in landfills of waste or scrap tires which have been shredded, cut into multiple pieces, or which have been otherwise processed to reduce the volume thereof shall not be prohibited by this section.

(d) Yard trash, after January 1, 1992, except in landfills designated by department rule. Yard trash that is source separated from solid waste may be accepted by a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.

(e) White goods, after January 1, 1992.

(f) Free liquid waste, after January 1, 1992.

Prior to the effective dates specified in paragraphs (a)-(f), the department shall identify and assist in developing alternative disposal or processing or recycling options for the solid wastes identified in paragraphs (a)-(f).

Section 18. Section 403.709, Florida Statutes, is amended to read:

403.709 *Solid Waste* ~~Resource recovery and~~ Management *Trust* ~~grant~~ Fund.—

(1) There is created the Solid Waste Management Trust Fund, to be administered by the department, to be used as a nonlapsing fund for the deposit of funds collected through the employing unit reporting fee established in s. 212.0605, waste tire disposal fees and funds appropriated by the Legislature for the purposes set forth in subsection (2).

(2) The department shall allocate the moneys deposited in the Solid Waste Management Trust Fund, including all interest generated thereon, except waste tire disposal fees, in the following manner:

(a) At least 40 percent shall be expended by the department for grants to counties and municipalities for the development and implementation of or contracting with other persons for the development and implementation of recycling programs as set forth in ss. 403.706 and 403.7064. The grants provided to develop and implement recycling programs may be used to identify markets; develop a public education program; purchase collection, processing, and storage equipment; purchase scales for weighing solid waste; and do other things necessary to develop and implement a recycling program or to contract with other persons to develop and implement a recycling program, including the development and implementation of composting programs. The grants may be used to purchase collection, processing, and storage equipment only to the extent needed for collection, processing, and storage of recyclable materials. In no case shall the amount of the grant to a county or a municipality exceed 50 percent of the total costs of developing and implementing a recycling program. Local governments already operating recycling programs shall be eligible to receive grant funding for future expenses incurred, for the items listed in this paragraph, in existing recycling programs.

(b) At least 20 percent shall be expended by the department for grants to counties for the development and implementation of local solid waste management programs as set forth in ss. 403.706-403.7063, including related studies, surveys, research, analyses, public education programs, composting programs, and special waste management programs. In no case shall the amount of the grant to a county exceed 50 percent of the total cost of developing and implementing a local solid waste management program.

(c) No more than 25 percent shall be expended by the department for grants to local governments for assistance in closing, monitoring, or making improvements to existing solid waste management disposal areas. In determining the priority of grants for closing, monitoring, or making improvements to existing solid waste disposal areas, the department shall give preference to those local governments that are under consent orders issued by the department prior to the effective date of this act to close their existing solid waste disposal areas. In no case shall the amount of the grant to a local government exceed 50 percent of the total costs of closing, monitoring or making improvements to the solid waste disposal area.

(d) No more than 5 percent may be expended by the department for research by the department or other persons on innovative solid waste management techniques or research on development of recyclable or biodegradable materials.

(e) No more than 10 percent may be expended by the department for public information, public education, model recycling and solid waste reduction program development, technical assistance programs concerning recycling and solid waste reduction, and development of the hazardous substance reduction and waste elimination and reduction assistance program established in s. 403.7223.

(f) No more than 10 percent may be expended by the department to contract with the Department of Transportation, the Department of Commerce, the Department of General Services, and the Department of Education to perform their responsibilities as required by this act.

(g) No more than 1 percent may be expended for the collection and administration of moneys in the fund.

(h) In allocating funds for the local government grants under paragraphs (a) and (b), the following formula shall be used:

1. Twenty-five percent of the funds for local government grants shall be used for grants to counties, allocated to ensure that each county shall receive an equal base grant.

2. Seventy-five percent of the funds available for local grants to counties and municipalities shall be allocated in accordance with a formula based on population which shall be adopted by department rule.

(3) Notwithstanding the foregoing, not less than 90 percent of the gross annual waste tire fee must be distributed in grants for the collection of used and waste tires, volume reduction plants for the processing of used and waste tires after processing. The remaining proceeds of waste tire disposal fees shall be administered and allocated by the department in accordance with the preceding subsection.

(4) The department may authorize a grant from the fund to a local government which has not had its plan approved pursuant to s. 403.7063 for a specific activity if the department determines that activity is ready to be implemented and will result in substantial progress toward meeting the goals described in s. 403.706(2). However, no grant shall be made pursuant to this subsection unless the local government provides at least 50 percent of the cost of the grant, and any grant awarded under this subsection shall be deducted from the grant received by the local government pursuant to subsection (2).

(5) Moneys in the Solid Waste Management Trust Fund which are not needed currently to meet the requirements of this section shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided by statute. The interest received on such investment shall be credited to the fund.

(6)(a) Any business engaged in the manufacture in this state of products that use secondary recyclable materials collected and processed in this state in the manufacturing process, or that transports secondary recyclable materials out of this state for recycling within 1 year of the date of purchase of the secondary recyclable materials, may apply to the department for a grant from the Solid Waste Management Trust

Fund. The grant shall be no more than an amount equal to 10 percent of the amount paid for the secondary recyclable materials. The grant shall be allowed within 1 year after the date of purchase. The grant shall be only for increases in purchases of secondary recyclable material compared to the average purchases of secondary recyclable material purchased during the 5 years immediately preceding the year in which the application for a grant is filed. Grants shall be on a first-come, first-serve basis, and shall not in total exceed $3,000,000 per year.

(b) For the purposes of this subsection "secondary recyclable material" means material other than hazardous waste that has been used, that has no significant value in its present form to its original consumer but that has value as a material to be used in manufacturing or producing new products, and that is used in place of a primary raw material in manufacturing a new product. Such material includes paper and fibers, glass, metal, and plastic, but does not include internally generated waste or scrap or by-products of manufacturing that are commonly used in industrial or manufacturing processes or waste or scrap purchased from another manufacturer who manufactures the same or a closely related product.

(c) The department shall promulgate rules to implement and administer this subsection.

(7) The department shall prepare an annual report on the Solid Waste Management Trust Fund on September 1 of each year. The report shall list receipts to, and disbursements from, the fund; claims processed and pending; and any other information relevant to the fund. The report shall be sent to the Governor, the President of the Senate, the Speaker of the House of Representatives, and every municipality and county.

~~(1) The department may assist counties and municipalities in complying with this act by providing grants to pay a portion of the cost, in no case to exceed 50 percent of the total planning and project costs, for planning and implementing local resource recovery and management programs as required by s. 403.706. Implementation costs may include the cost of acquiring equipment, but not land, in accordance with an approved local program.~~

~~(2) Such grants are to be based on a formula of $5,000 per county or municipality plus 25 cents per capita for each user of resource recovery and management services being provided by a county or municipality. To the extent funds are available, the department shall allocate such funds to counties and municipalities in accordance with the formula provided in this subsection.~~

~~(3) Prior to the adoption by the department of the state resource recovery and management program, and to the extent funds are available, grants may be made by the department to counties and municipalities according to the formula in subsection (2) to pay a portion of the cost, in no case to exceed 50 percent of the total cost for operation and implementation, of local resource recovery and management programs existing on July 1, 1974.~~

Section 19. Section 403.714, Florida Statutes, is amended to read:

403.714 Duties of *state agencies* ~~Department of General Services.~~—

(1) It shall be the duty of *each state agency, the legislative and judicial branches of state government, and the State University System, by September 1, 1989,* ~~the Department of General Services~~ to:

(a)~~(1)~~ Establish a program, in cooperation with the Department of Environmental Regulation *and the Department of General Services*, for the collection of all *recyclable* ~~wastepaper~~ materials *generated* in state offices throughout the state, *including, at a minimum, aluminum, high grade office paper, and corrugated paper* ~~which program, in addition to requiring participation by the established executive departments, shall provide for participation by the offices of the legislative and judicial branches of state government as well~~.

(b)~~(2)~~ Provide *procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with buyers of the recyclable materials* ~~a program to recycle all wastepaper materials collected in accordance with the provisions of this section whenever practicable~~.

(c)~~(3)~~ Evaluate the amount of *recyclable* ~~wastepaper~~ material recycled ~~by the state~~ and make all necessary modifications to said recycling program to insure that all *recyclable* ~~wastepaper~~ materials are effectively and practicably recycled.

(d) Establish and implement, in cooperation with the Department of Environmental Regulation and the Department of General Services, a solid waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of solid waste generated as a result of agency operations.

(2) All state agencies, including the Department of Natural Resources and the Game and Fresh Water Fish Commission, and local governments that are responsible for the maintenance of public lands shall, to the maximum extent feasible, give consideration and preference to the use of compost materials in all land maintenance performed with public funds.

(3)(a) The Department of Education, in cooperation with the State University System and the Department of Environmental Regulation, shall develop, distribute, and encourage the use of guidelines for the collection of recyclable materials and for solid waste reduction in the state system of education. At a minimum, the guidelines shall address solid waste generated in administrative offices, classrooms, dormitories, and cafeterias. The guidelines shall be developed by September 1, 1989.

(b) In order to orient students and their families to the recycling of waste and to encourage the participation of schools, communities, and families in recycling programs, the school board of each school district in the state shall provide a program of student instruction in the recycling of waste materials. The instruction shall be provided at both the elementary and secondary levels of education.

(c) The Department of Education is directed to develop, from funds appropriated for environmental education, curriculum materials, and resource guides for a recycling awareness program for instruction at the elementary, middle, and high school levels.

Section 20. *Section 203.10, Florida Statutes, is renumbered as section 403.7215, Florida Statutes.*

Section 21. Section 403.7223, Florida Statutes, is created to read:

403.7223 Hazardous substances reduction and waste elimination and reduction assistance program.—

(1) The Legislature finds that the reduction of the volume and toxicity of hazardous waste generated in Florida and the reduction of the volume of hazardous substances used in Florida are the most environmentally, economically, and technically efficient methods of protecting the public health and the environment from the improper management of hazardous waste.

(2) The department shall establish a hazardous substances reduction and waste reduction and elimination assistance program designed to assist all persons in reducing the amount and toxicity of the hazardous waste generated in Florida to the maximum extent possible and in reducing the volume of hazardous substances used in Florida. The hazardous substances reduction and waste reduction and elimination assistance program may include, but is not limited to:

(a) The establishment of a hazardous substances reduction and waste reduction and elimination clearinghouse of all available information concerning hazardous substances reduction, waste reduction, waste minimization, recycling programs, economic and energy savings, and production and environmental improvements.

(b) Assistance in transferring information concerning hazardous substances reduction and waste reduction and elimination technologies through workshops, conferences, and handbooks.

(c) Cooperation with university programs to develop waste reduction curricula and training.

(d) Technical assistance and onsite hazardous substances reduction and waste reduction and elimination audits when requested by hazardous waste generators.

(e) Incentive programs for innovative hazardous substances reduction and waste management, reduction, and elimination programs.

Section 22. Paragraph (f) is added to subsection (7) and paragraph (c) is added to subsection (9) of section 163.01, Florida Statutes, to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)

(f) Notwithstanding anything to the contrary, any separate legal entity, created pursuant to the provisions of this section, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties of this state, may exercise the right and power of eminent domain, including the procedural powers under chapters 73 and 74, if such right and power is granted to such entity by the interlocal agreement creating the entity.

(9)

(c) All of the privileges and immunities from liability and exemptions from laws, ordinances, and rules which apply to the municipalities and counties of this state apply to the same degree and extent to any separate legal entity, created pursuant to the provisions of this section, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties of this state, unless the interlocal agreement creating such entity provides to the contrary. All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; and pension and relief, disability, and worker's compensation, and other benefits which apply to the activity of officers, agents, employees, or employees of agents of counties and municipalities of this state which are parties to an interlocal agreement creating a separate legal entity pursuant to the provisions of this section shall apply to the same degree and extent to the officers, agents, or employees of such entity unless the interlocal agreement creating such entity provides to the contrary.

Section 23. Section 287.05, Florida Statutes, is created to read:

287.05 Procurement of products and materials with recycled content.—

(1) The Division of Purchasing, in cooperation with the Department of Environmental Regulation, shall review and revise existing procurement procedures and specifications for the purchase of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of this state.

(2) The division shall review and revise its procurement procedures and specifications for the purchase of products and materials to ensure, to the maximum extent economically feasible, that it purchases products or materials that may be recycled or reused when these products or materials are discarded. The division shall complete an initial review and revision by September 1, 1989.

(3) As part of the review and revision required in subsection (2), the division shall review its procurement provisions and specifications for the purchase of products and materials to determine which products or materials with recycled content could be procured by the division or other agencies and the amount of recycled content that can economically and technologically be contained in such products or materials. The division and other agencies shall use the amounts of recycled content determined by the division in issuing invitations to bid for contracts for the purchase of such products or materials. The review shall be completed by September 1, 1989, and the amounts of recycled content determined by the division shall be used by the division and other agencies thereafter.

(4) Upon completion of the review required in subsection (3), the division or an agency shall require that a person who submits a bid for a contract for the purchase of products or materials identified in subsection (3) and who wishes to be considered for the price preference described in subsection (5) shall certify, in writing, the percentage of recycled content in the product or material that is subject to the bid. A person may certify that the product or material contains no recycled content.

(5) Upon evaluation of bids for every public contract that involves the purchase of products or materials identified in subsection (3), the division or an agency shall identify the lowest responsive bidder, and any other responsive bidders who have certified that the products or materials contain at least the minimum percentage of recycled content that is set forth in the invitation for the bids. In awarding a contract for the purchase of products or materials, the division or an agency may allow up to a 10 percent price preference to a responsive bidder who has certified that the products or materials contain at least the minimum percentage of recycled content. If no bidders offer products or materials with the minimum prescribed recycled content, the contract shall be awarded to the lowest bidder.

(6) For the purposes of this section, "recycled content" means materials that have been recycled that are contained in the products or materials to be procured. The term does not include internally generated scrap that is commonly used in industrial or manufacturing processes or waste or scrap purchased from another manufacturer who manufactures the same or a closely related product.

(7) Any person who believes that a particular product or material with recycled content may be beneficially used instead of another product or material may request the division to evaluate that product or material. The division shall review each reasonable proposal to determine its merit and, if it finds that the product or material may be used beneficially, it may incorporate that product or material into its procurement procedures.

(8) The division shall review and revise its procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content.

(9) All agencies shall cooperate with the division in carrying out the provisions of this section.

Section 24. *The Department of Commerce shall assist and encourage the recycling industry of Florida. Assistance and encouragement of the recycling industry shall include, but is not limited to:*

(1) Identifying and analyzing, in cooperation with the Department of Environmental Regulation, components of Florida's recycling industry and present and potential markets for recyclable materials in Florida, other states, and foreign countries;

(2) Providing information on the availability and benefits of using recycled materials to Florida businesses and industries; and

(3) Distributing any material prepared in implementing this section to the public, businesses, industries, local governments, or other organizations upon request.

By September 1, 1989, and every other year thereafter, the Department of Commerce shall prepare a report assessing the recycling industry and recyclable materials markets in Florida.

Section 25. Subsections (4), (5), (6), (7), and (8) are added to section 337.02, Florida Statutes, to read:

337.02 Purchases by department subject to competitive bids; advertisement; emergency purchases; bid specifications.—

(4) The department shall review and revise existing bid procedures and specifications for the purchase or use of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of this state.

(5) The department shall review and revise its bid procedures and specifications for the purchase of products and materials to ensure, to the maximum extent economically and technologically feasible, that it purchases or uses products or materials that may be recycled or reused when these products or materials are discarded. The department shall complete an initial review and revision by September 1, 1989.

(6) The department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content.

(7) In performing the duties required in subsections (4), (5), and (6), the department shall evaluate the feasibility of revising its bid procedures and specifications for contractual services to encourage the use of products or materials with recycled content.

(8) All agencies shall cooperate with the department in carrying out the provisions of subsections (4), (5), (6), and (7).

Section 26. *(1) Research, training, and service activities related to solid and hazardous waste management conducted by state universities shall be coordinated by the Board of Regents through the Office of the Chancellor. Proposals for research contracts and grants; public service*

assignments; and responses to requests for information and technical assistance by state and local government, business, and industry shall be addressed by a formal Type I Center process involving an advisory board of university personnel appointed by the chancellor and chaired and directed by an individual appointed by the chancellor.

(2) The Board of Regents shall designate an institution or several institutions within the State University System to conduct a study of the effects of commercial product packaging on the management of solid waste in the state. Such study shall involve, but is not limited to:

(a) Evaluation of packaging which contains large concentrations of chloride, such as packaging made with polyvinyl chloride.

(b) Evaluation of polystyrene packaging.

(c) Evaluation of packaging that introduces heavy metals into the waste stream.

(d) Identification of unnecessary packaging.

(e) Identification of packaging that is nonrecyclable and nonbiodegradable.

The study and, if necessary, recommendations for legislative action, shall be completed by October 1, 1989, and shall be submitted to the Governor and the Legislature. In conducting the study, the designated institute or institutes shall consult with businesses and industries, environmental interests, local governments involved in developing solid waste management or recycling programs, state agencies, and other institutions of the State University System.

Section 27. Section 403.75, Florida Statutes, is amended to read:

403.75 Definitions relating to used oil.—As used in ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, the term:

(1) "Public used oil collection center" means a facility that accepts for accumulation and delivery to a used oil collection or recycling facility, used oil that has been removed from the engine, transmission, or gearbox of a motor vehicle.

(2)~~(1)~~ "Department" means the Department of Environmental Regulation.

(3)~~(2)~~ "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, political subdivision, or governmental agency or instrumentality.

(4)~~(3)~~ "Reclaiming" means the use of *methods, other than those used in rerefining, to purify* ~~cleaning methods on~~ used oil primarily to remove insoluble contaminants, making the oil suitable for further use; the methods may include settling, heating, dehydration, filtration, or centrifuging.

(5)~~(4)~~ "Recycling" means to prepare used oil for reuse as a petroleum product by rerefining, reclaiming, *reprocessing,* or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil.

(6)~~(5)~~ "Rerefining" means the use of refining processes on used oil to produce high-quality base stocks for lubricants or other petroleum products. Rerefining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, *or other physical treatments other than those used in reclaiming.*

(7)~~(6)~~ "Used oil" means any oil which has been refined from crude oil *or synthetic oil* and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

(8) "Used oil recycling facility" means any facility that recycles more than 10,000 gallons of used oil annually.

Section 28. Section 403.751, Florida Statutes, is amended to read:

403.751 Prohibited actions; used oil.—

(1)(a) No person may collect, transport, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare.

(b) No person may discharge used oil into sewers, drainage systems, *septic tanks,* surface or ground waters, watercourses, or marine waters.

(c) No person may mix or commingle used oil with solid waste that is to be disposed of in landfills or directly dispose of used oil in landfills in Florida unless approved by the department.

(d) Any person who unknowingly disposes into a landfill any used oil which has not been properly segregated or separated from other solid wastes by the generator is not guilty of a violation under this act.

(e) No person may mix or commingle used oil with hazardous substances that make it unsuitable for recycling or beneficial use.

(2) *Used oil shall not be used for road oiling, dust control, weed abatement, or other similar uses that have the potential to release used oil into the environment.* ~~Nothing in ss. 403.75-403.759 or in s. 526.01, as amended by chapter 84-338, Laws of Florida, prohibits the use of used oil for road maintenance purposes, as a fuel, for weed abatement on the user's property, or for agricultural dust control, unless such use violates another law or rule or endangers public health. However, used oil shall not be used for road oiling, dust control, and weed abatement in areas where sole source aquifers have been designated.~~

Section 29. Subsection (4) of section 403.753, Florida Statutes, is amended to read:

403.753 Public educational program about collection and recycling of used oil.—The department shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil and shall:

(4) Encourage the procurement of *recycled* ~~rerefined~~ automotive, ~~and~~ industrial, *and fuel* oils, *and oils blended with recycled oils,* for all state and local *government* uses~~, whenever such rerefined oils are available at prices that are competitive with those of new oil produced for the same purpose~~. *Recycled oils procured under this section shall meet equipment manufacturer's specifications. A 5-percent price preference may be given in procuring these recycled products.*

Section 30. Subsection (1) of section 403.754, Florida Statutes, is amended, subsections (3) through (6) are renumbered as subsections (4) through (7), respectively, and a new subsection (3) is added to said section, to read:

403.754 Registration of persons transporting, collecting, or recycling used oil; fees; reports and records.—

(1) ~~Beginning July 1, 1985,~~ The following persons shall register annually with the department pursuant to rules of the department on forms prescribed by it:

(a) Any person who transports over public highways more than 500 gallons of used oil annually.

(b) Any person who maintains a collection facility that receives more than 6,000 gallons of used oil annually. *For purposes of registration, the amount received does not include used oil delivered to collection centers by individuals that change their own personal motor oil.*

(c) Any facility that recycles more than 10,000 gallons of used oil annually.

(3) An onsite burner which only burns a specification used oil generated by such burner is not required to register or report pursuant to this section, provided that such burning is done in compliance with any air permits issued by the department.

Section 31. Section 403.7545, Florida Statutes, is amended to read:

403.7545 Regulation of used oil as hazardous waste.—Nothing in ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall prohibit the department from regulating used oil as a hazardous waste in a manner consistent with s. 241 of the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

Section 32. Section 403.757, Florida Statutes, is amended to read:

403.757 Coordination with other state agencies.—

(1) The department shall coordinate its activities and functions under ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, with the Governor's Energy Office and other state agencies to avoid duplication in reporting and information gathering.

(2) The nonprofit corporation established pursuant to s. 946.502 shall examine the feasibility of using used oil to fuel boilers and furnaces of state government buildings.

(3) The Department of Transportation shall examine the feasibility of using recycled oil products in road construction activities.

(4) The Departments of Corrections and Transportation shall report to the President of the Senate and the Speaker of the House of Representatives by January 1, 1989, on the results of the tasks assigned in subsections (2) and (3).

Section 33. Section 403.758, Florida Statutes, is amended to read:

403.758 Enforcement and penalty.—

(1) Except as provided in subsection (2), the department may enforce ss. *403 75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, pursuant to ss. 403.121 and 403.131.

(2) Any person who fails to register with the department as required by s. 403.754 and s. 526.01, as amended by chapter 84-338, Laws of Florida, is subject to a fine of $300.

Section 34. Section 403.759, Florida Statutes, is amended to read:

403.759 Disposition of fees, fines, and penalties.—The proceeds from the registration fees, fines, and penalties imposed by ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall be deposited into the *Solid Waste Management Trust Fund* ~~Department of Environmental Regulation Trust Fund~~ for use by the department in implementing the provisions of ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida.

Section 35. Section 403.760, Florida Statutes, is created to read:

403.760 Public used oil collection centers.—

(1) The department shall encourage the voluntary establishment of public used oil collection centers and recycling programs and provide technical assistance to persons who organize such programs.

(2) All government agencies, and businesses that change motor oil for the public, are encouraged to serve as public used oil collection centers.

(3) A public used oil collection center must:

(a) Notify the department annually that it is accepting used oil from the public; and

(b) Annually report quantities of used oil collected from the public.

(4) The Department of Agriculture and Consumer Services shall assist the department in inspecting public used oil collection centers.

(5) No person may recover from the owner or operator of a used oil collection center any costs of response actions, as defined in s. 376.301(14), resulting from a release of either used oil or a hazardous substance or use the authority of ss. 376.307, 376.3071, and 403.724 against the owner or operator of a used oil collection center if such used oil is:

(a) Not mixed with any hazardous substance by the owner or operator of the used oil collection center;

(b) Not knowingly accepted with any hazardous substances contained therein;

(c) Transported from the used oil collection center by a certified transporter pursuant to s. 403.767;

(d) Stored in a used oil collection center that is in compliance with this section; and

(e) In compliance with s. 114(6) of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended.

Nothing in this section shall affect or modify in any way the obligations or liability of any person under any other provisions of state or federal law, including common law, for injury or damage resulting from a release of used oil or hazardous substances. For the purpose of this section, the owner or operator of a used oil collection center may presume that a quantity of no more than 5 gallons of used oil accepted from any member of the public is not mixed with a hazardous substance, provided that such owner or operator acts in good faith.

Section 36. Section 403.761, Florida Statutes, is created to read:

403.761 Incentives program.—

(1) The department is authorized to establish an incentives program for individuals who change their own oil to encourage them to return their used oil to a used oil collection center.

(2) The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, or proper disposal of used oil.

(3) The department may contract with a promotion company to administer the incentives program.

Section 37. Section 403.763, Florida Statutes, is created to read:

403.763 Grants to local governments.—

(1) The department shall develop a grants program for local governments to encourage the collection, reuse, and proper disposal of used oil. No grant may be made for any project unless such project is approved by the department.

(2) The department shall consider for grant assistance any local government project that uses one or more of the following programs or any activity that the department feels will reduce the improper disposal and reuse of used oil:

(a) Curbside pickup of used oil containers by a local government or its designee.

(b) Retrofitting of solid waste equipment to promote curbside pickup or disposal of used oil at used oil collection centers designated by the local government.

(c) Establishment of publicly operated used oil collection centers at landfills or other public places.

(d) Providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used oil for pickup or return to a used oil collection center.

(e) Providing incentives for the establishment of privately operated public used oil collection centers.

(3) Eligible projects shall be funded according to provisions established by the department. However, in no case shall one grant exceed $25,000.

(4) The department shall initiate rules on or before January 1, 1989, necessary to carry out the purposes of this section.

Section 38. Section 403.767, Florida Statutes, is created to read:

403.767 Certification of used oil transporters.—

(1) Any person who transports over public highways after January 1, 1990, more than 500 gallons annually of used oil must be a certified transporter.

(2) The department shall develop a certification program for transporters of used oil, and shall issue, deny, or revoke certifications authorizing the holder to transport used oil. Certification requirements shall help assure that a used oil transporter is familiar with appropriate rules and used oil management procedures.

(3) The department shall adopt rules governing certification, which shall include requirements for the following:

(a) Registration and annual reporting pursuant to s. 403.754.

(b) Evidence of familiarity with applicable state laws and rules governing used oil transportation.

(c) Proof of liability insurance or other means of financial responsibility for any liability which may be incurred in the transport of used oil.

Section 39. Section 403.769, Florida Statutes, is created to read:

403.769 Permits for used oil recycling facilities.—

(1) Each person who intends to operate, modify, or close a used oil recycling facility shall obtain an operation or closure permit from the department prior to operating, modifying, or closing the facility.

(2) By January 1, 1990, the department shall develop a permitting system for used oil recycling facilities after reviewing and considering the applicability of the permit system for hazardous waste treatment, storage, or disposal facilities.

(3) Permits shall not be required under this section for the burning of used oil as a fuel, provided:

(a) A valid department air permit is in effect for the facility; and

(b) The facility burns used oil in accordance with applicable United States Environmental Protection Agency regulations, local government regulations, and the requirements of its department air permit.

(4) No permit is required under this section for the use of used oil for the beneficiation or flotation of phosphate rock.

Section 40. *Waste tire disposal requirements.—*

(1) On and after January 1, 1989, a person may not engage in the collection or processing of waste tires without first having obtained a permit from the Department of Environmental Regulation. On and after January 1, 1989, it is unlawful for any person to dispose of any waste tires in this state except at a permitted processing or collection site.

(2) The owner or operator of any site, at which 1,000 or more tires are accumulated on the effective date of this section, shall within 60 days, provide the department with information concerning the site's location, size and the approximate number of waste tires that are accumulated at the site. All such sites in existence on the effective date of this section shall either be in compliance with this section by July 1, 1989 or cease operations and by, July 1, 1990, permanently dispose of all tires at a permitted facility.

(3) A permit is not required of:

(a) A retail tire-selling business if no more than one thousand waste tires are kept on the business premises.

(b) A tire retreading business if no more than one thousand waste tires are kept on the business premises.

(c) A business that, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises.

(d) A permitted solid waste management facility with less than one thousand waste tires stored above ground at the permitted site.

(4) By January 1, 1989, the department shall adopt rules to carry out the provisions of this section. Such rules shall provide for the administration of waste tire collector and processor permits which may not exceed $250.00 annually and for the administration of permits for tire collection and processing facilities which may not exceed $250.00 annually.

(a) The department shall encourage the voluntary establishment of waste tire collection centers to be open to the public for the disposal of used and waste tires, volume reduction facilities, and storage facilities.

(b) The department is authorized to establish an incentives program for individuals to encourage them to return their waste tires to permitted collection centers.

(c) The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, volume reduction and proper disposal of waste tires.

(d) The department may contract with a promotion company to administer the incentives program.

Section 41. *Waste tire fees.—*

(1) Beginning January 1, 1989, every person engaged in the business of selling new tires within the state shall pay a special fee of one dollar ($1.00) for each tire that is sold by such person. The special fee imposed by this section shall be collected at the same time and in the same manner as the general sales tax and shall be in addition to any other charge, tax or fee imposed by law upon tires.

(2) The fee imposed by this section shall be reported and paid to the Department of Revenue quarterly. The payment shall be accompanied by such form as the Department of Revenue may prescribe. All moneys generated by the special fee and received by the Department of Revenue shall be deposited in the Solid Waste Management Trust Fund.

(3) The department shall establish a grants program for local government to encourage the collection, processing, volume reduction and proper reuse or storage or disposal of used and waste tires. No grant shall be made for any project unless such project is approved by the department.

Section 42. *Restrictions on beverage containers; enforcement and penalties.—*

(1) After July 1, 1989, no beverage shall be sold or offered for sale within the state in a beverage container designed and constructed so that the container is opened by detaching a metal ring or tab.

(2) After July 1, 1989, no beverage shall be sold or offered for sale within the state in a beverage container connected to other beverage containers by a separate holding device constructed of plastic rings or any other device not composed of biodegradable or photodegradable material. Notice of degradability shall be embossed or otherwise indicated on the holding device for ease of inspection.

(3) For purposes of this section:

(a) "Biodegradable or photodegradable material" means any material which, within 120 days of being discarded, is capable of decomposing to components other than heavy metals or other toxic substances, after exposure to bacteria or light.

(b) "Beverage" means soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drinks; soft drinks, whether or not carbonated; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink. This definition does not include 100 percent fruit juice, 100 percent vegetable juice, or 100 percent milk products, or noncarbonated water.

(c) "Beverage container" means an airtight container, which at the time of sale contains 1 gallon or less of a beverage, or the metric equivalent of 1 gallon or less, and which is composed of metal, plastic, or glass or a combination thereof.

(4) The Division of Alcoholic Beverages and Tobacco may impose a fine of not more than $100 on any person currently licensed pursuant to s. 561.14, Florida Statutes, for each violation of the provisions of this section. If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(5) The Department of Agriculture and Consumer Services may impose a fine of not more than $100 on any person not currently licensed pursuant to s. 561.14, Florida Statutes, for each violation of the provisions of this section. If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(6) Fifty percent of each fine collected pursuant to subsections (4) and (5) shall be deposited into the Solid Waste Management Trust Fund. The balance of fines collected pursuant to subsection (4) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund for the use of the division for inspection and enforcement of the provisions of this section. The balance of fines collected pursuant to subsection (5) shall be deposited into the General Inspection Trust Fund for the use of the Department of Agriculture and Consumer Services for inspection and enforcement of the provisions of this section.

(7) The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation and the Department of Agriculture and Consumer Services shall coordinate their responsibilities under the provisions of this section to ensure that inspections and enforcement are accomplished in an efficient, cost-effective manner.

Section 43. *(1) After July 1, 1989, no plastic bag shall be provided at any retail outlet to any retail customer to use for the purpose of carrying items purchased by that customer unless the bag is composed of biodegradable or photodegradable material. Notice of degradability shall be printed on each bag.*

(2) For purposes of this section:

(a) "Retail outlet" means any establishment where 80 percent or more of its income is from retail sales. This term does not mean any establishment whose primary purpose is to sell food prepared for immediate consumption.

(b) "Biodegradable or photodegradable material" means any material which, within 120 days of being discarded, decomposes to components other than heavy metal residue or other toxic residue, after exposure to bacteria or light.

(3) The owner of a retail outlet violating this section shall be subject to a fine of $100 per location. Each day of a continuing violation shall be considered as a separate violation.

(4) One half of the fines collected pursuant to this section shall be deposited in the Solid Waste Management Trust Fund created in s. 403.709, Florida Statutes. The balance of such fines shall be deposited into the operating account of the enforcing agency.

Section 44. Paragraph (f) of subsection (2) and subsection (3) of section 377.709, Florida Statutes, are amended, subsection (5) is renumbered as subsection (6), and a new subsection (5) is added to said section, to read:

377.709 ~~Advanced~~ Funding by electric utilities of local governmental solid waste facilities that generate electricity.—

(2) As used in this section, the term:

(f) "Solid waste facility" means a facility *owned or operated by, or on behalf of, local government, the purpose of which is to dispose* ~~which disposes~~ of solid *waste, as that term is defined in s. 403.703(9),* ~~refuse~~ by any process that produces heat and incorporates, as a part of the facility, the means of converting heat to electrical energy in amounts greater than actually required for the operation of the facility.

(3) *ADVANCED FUNDING PROGRAM.—*

(a) Upon the petition of a local government, the commission shall have the authority, subject to the provisions of this section, to require an electric utility to enter into a contract with the local government to provide advanced funding to such government for the construction of the electrical component of a solid waste facility.

(b) A contract may not be entered into without the prior approval of the contract by the commission. The commission may approve or disapprove a contract, or it may modify a contract with the concurrence of the parties to the contract. When reviewing a contract, the commission shall consider those items it deems appropriate, including, but not limited to, the cost-effectiveness of the unit and the financial ability of the electric utility to provide the funding. If an electric utility and a local government cannot agree to the terms of a contract, or if it is shown that an electric utility has refused to negotiate a contract with a local government, the commission may prescribe the terms of the contract subject to the provisions of this section. The commission, however, shall not approve a contract which is violative of any of the following provisions:

1. If the commission determines that advanced-capacity payments to the local government during the period of construction are appropriate, such payments must be the lesser of:

a. The net present value of avoided-capacity cost for the electric utility calculated over the period of time during which the local government contracts to provide electrical capacity to the utility. The avoided-capacity cost is that cost established by the commission pursuant to s. 366.05(9) and in effect by commission rule at the time the order approving the contract is issued; or

b. An amount which is not more than the amount of the design costs of the electrical component of the solid waste facility as determined by the commission to be reasonable and prudent at the time of its order, or such portion thereof that is proportionate to the electrical capacity made available by contract to the electric utility.

2. If the commission determines that energy payments to the local government are appropriate, such payments may not be greater than the lesser of:

a. The hourly incremental energy rates of the electric utility as provided for in its approved tariffs over the period of the contract; or

b. The energy costs associated with the avoided-capacity costs of the electric utility as determined by the commission.

3. The electric utility must currently be providing electrical energy at retail within the geographic area of the local government or within the geographic area of one or more of the participating local governments.

4. The amount of financing, including all carrying costs, plus reasonable and prudent administrative costs incurred by the electric utility, must be recovered from the ratepayers of the electric utility pursuant to the provisions of the Florida Energy Efficiency and Conservation Act. An electric utility may not be required to pay to the local government any funding in excess of that collected from its ratepayers.

5. Funding of the electrical component of the solid waste facility must be cost-effective to the ratepayer and must not cause or contribute to the uneconomic duplication of electric facilities.

(5) ELECTRIC ENERGY PRICING PROGRAM.—

(a) The commission shall establish guidelines relating to the purchase of capacity or energy by electric utilities as defined in this section from local government solid waste facilities. In setting these rates local government solid waste facilities may be exempted from any risk-related consideration which the commission may use in determining the avoided-capacity cost applicable to other cogenerators or small power producers which are not local government solid waste facilities. Such exemptions are intended to foster the development of local government solid waste facilities that generate electricity and are intended to provide incentives for environmentally sound methods of disposing of solid wastes without imposing undue risk or cost on electric consumers in this state. The commission may authorize levelized payments for purchase of capacity or energy from a local government solid waste facility. Payments provided pursuant to this subsection shall be subject to the terms and conditions set forth in subsection (4) for advanced-capacity payments, and shall be recoverable from ratepayers of the electric utility as provided in subparagraph (3)(b)4.

(b) It is the intent of the Legislature to encourage parties to review contracts in effect as of July 1, 1988, to incorporate the applicable provisions of this section, subject to approval of the commission.

Section 45. *(1) It is the intent of the Legislature that a coordinated effort of interested state and local agencies of government and other public and private organizations and interests be developed to plan for and implement a solution to the litter problems in this state, and that the state provide financial assistance for the establishment of a nonprofit organization with the name of "Keep Florida Beautiful, Incorporated" which shall be registered, incorporated, and operated in compliance with chapter 617, Florida Statutes. This nonprofit organization shall operate as the grassroots arm of the state's effort and shall serve as an umbrella organization for volunteer-based community programs dedicated to a cleaner environment through sustained litter prevention.*

(2) As used in this section:

(a) "Department" means the Department of Transportation.

(b) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, container, paper, lighted or unlighted cigarette or cigar, or flaming or glowing material.

(c) "Littering" means the act of throwing, discarding, placing, depositing, or otherwise disposing of litter improperly along public highways, on public or private lands, or in public waters.

(3) There is created within the Department of Transportation the Clean Florida Commission, which shall be responsible for coordinating a statewide litter prevention program involving state agencies, local governments, local organizations and individuals. The Clean Florida Commission shall consist of the following members or their designees:

(a) The Secretary of Environmental Regulation, who shall be the chairman.

(b) The Secretary of Transportation.

(c) The Executive Director of the Department of Natural Resources.

(d) The Commissioner of Education.

(e) The Secretary of Commerce.

These members shall serve as ex officio members of the commission and shall be considered as the base members of the commission. Additional members from interested state agencies, local governments, and state and local organizations may serve on the commission by unanimous consent of the commission's base members.

(4) The commission shall have the following powers and duties:

(a) To appoint an executive director, who may employ such other administrative staff and clerical staff as are necessary to carry out the purpose of litter prevention in this state as identified in this section. Such employment by the commission may be pursuant to contract with a public or private entity.

(b) To contract for the development of a highly visible anti-litter campaign which shall, at a minimum:

1. Identify groups that habitually litter.

2. Design appropriate advertising to promote proper disposal of litter by groups that habitually litter.

3. Foster public awareness of the litter problem in this state and the litter prevention program.

4. Develop educational programs and materials to promote proper disposal of litter.

(c) To make and execute contracts necessary to the exercise of its powers, including interagency agreements.

(d) To engage in the planning of a litter prevention program.

(e) To conduct, direct, encourage, coordinate, and organize a continuous program of public education relating to litter prevention.

(f) To review, upon request, all plans and activities pertinent to reducing litter and littering and to coordinate these activities with the various levels of government as well as other local organizations.

(g) To coordinate with state and local organizations to market programs promoting litter prevention and to facilitate the exchange of such programs between local organizations through annual conferences.

(h) To make available to elementary and secondary schools and other public forums, educational programs and materials to promote proper disposal of litter.

(i) To develop and implement statewide incentive programs designed to motivate individual citizens, local organizations, local governments, and other groups interested in participating in litter prevention program activities.

(j) To provide grants to local governments and nonprofit organizations to be used to implement litter prevention programs through education and broad-based citizen involvement at the community level. Except as specifically appropriated, such grants may provide up to one-half of the first year costs to initiate and operate such programs, or $25,000, whichever is less. Such grants shall be awarded on a priority basis, with applicants requesting funding for the establishment of local litter prevention systems receiving first priority.

(k) To monitor the effectiveness of the litter prevention program on an annual basis and to prepare an annual report of operations that includes the results of such monitoring. The annual report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1 of each year, beginning on February 1, 1990.

Section 46. Subsection (5) of section 403.413, Florida Statutes, is renumbered as subsection (6) and amended, and a new subsection (5) is added to said section, to read:

403.413 Florida Litter Law.—

(5) DETAINMENT.—

(a) With respect to private property, the owner of the private property, any law enforcement officer, any agent of the owner, any employee of the owner and any tenant of the owner of the private property who has probable cause to believe that any person is violating the provisions of this section on the private property may take a person into custody on the private property and detain him in a reasonable manner and for a reasonable length of time. In the event that the owner of the private property, or his agent, employee or tenant takes the person into custody, a law enforcement officer shall be called to the scene as soon as possible after the person has been taken into custody.

(b) The taking into custody and detention by the owner of private property, any law enforcement officer, any agent of the owner, any employee of the owner or any tenant of the owner of the private property, if done in compliance with the requirements of this subsection, shall not render such owner, law enforcement officer, agent, employee, or tenant criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(c) Any law enforcement officer may arrest, either on or off private property and without warrant any person he has probable cause to believe has committed a violation of this section.

(6)~~(5)~~ PENALTIES; ENFORCEMENT.—

(a) Any person violating the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. *In addition,* the court *shall* ~~may~~ impose *an* ~~the~~ additional *penalty* ~~penalties~~ of picking up litter or performing other ~~labor commensurate with the offense committed.~~ *community service work as follows:*

1. For a first offense, 10 hours.

2. For a second offense, 25 hours.

3. For a third offense or subsequent offense, 100 hours.

(b) It shall be the duty of all law enforcement officers, as defined herein, to enforce the provisions of this section.

(c)1. Any person violating the provisions of this section for a second or subsequent offense is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. In the event that the litter deposited in violation of this section is hazardous waste as defined in s. 403.703, upon conviction, the person shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 47. Section 381.80, Florida Statutes, is created to read:

381.80 Biohazardous waste.—

(1) INTENT.—It is the intent of the Legislature to protect the public's health by establishing standards for the safe packaging, storage, treatment, and disposal of biohazardous waste. It is the intent of the Legislature that the Department of Health and Rehabilitative Services shall regulate the packaging, storage, and treatment of biohazardous waste which occurs at facilities where the biohazardous waste is generated, and the Department of Environmental Regulation shall regulate biohazardous waste from the point at which the waste is transported from the facility where it was generated. The Department of Environmental Regulation shall regulate onsite and offsite incineration of biohazardous waste, and the offsite transport, storage, treatment, or disposal of such waste. The Legislature further intends that the Department of Health and Rehabilitative Services and the Department of Environmental Regulation shall enter into an interagency agreement to ensure safe and proper handling and regulation of such waste.

(2) DEFINITIONS.—As used in this section:

(a) "Biohazardous waste" means any solid or liquid waste, as defined in s. 395.002(13)(c), which may present a threat of infection to humans. The term includes, but is not limited to:

1. Nonliquid human tissue and body parts.

2. Laboratory waste which contains disease-causing agents.

3. Used disposal sharps.

4. Human blood, blood products, and body fluids.

5. Other materials which in the opinion of the generator represent a significant risk of infection to persons outside of the facility which generates the materials.

(b) "Sharps" means those wastes which, as a result of their physical characteristics, may puncture, lacerate, or otherwise break the skin when handled.

(c) "Department" means the Department of Health and Rehabilitative Services.

(d) "Biohazardous waste generator" means a facility or person that produces or generates biohazardous wastes. Facilities include, but are not limited to: hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physician's offices, laboratories, veterinary clinics, and funeral homes.

(e) "Treatment" means any process, such as steam sterilization, chemical treatment, and incineration, which changes the character or composition of biohazardous waste so as to render it noninfectious.

(3) OPERATING STANDARDS.—No later than July 1, 1989, the department shall adopt rules necessary to protect the health, safety, and welfare of the public and to carry out the purposes of this section. Such rules shall address, but are not limited to, the packaging of biohazardous waste, including specific requirements for the safe packaging of sharps, and the collection, storage, treatment, and disposal of biohazardous wastes at the facilities in which such waste is generated.

(4) No later than March 15, 1989, the department shall promulgate proposed rules as required in subsection (3) for public comment.

(5) ENFORCEMENT AND PENALTIES.—This section and rules adopted pursuant to this section shall be enforced in the manner provided in s. 381.031(1)(g). Any person or public body which violates this section or rules adopted pursuant to this section is subject to the penalties provided in ss. 381.112 and 381.411, except that the maximum fine for each day's violation shall be increased to $2,500 per day.

Section 48. Paragraph (c) of subsection (13) of section 395.002, Florida Statutes, is amended to read:

(Substantial rewording of paragraph. See s. 395.002(13)(c), F.S., for present text.)

395.002 Definitions.—As used in this chapter:

(13)

(c) "Biohazardous waste" means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to:

1. Nonliquid human tissue and body parts.

2. Laboratory waste which contains disease-causing agents.

3. Used disposable sharps.

4. Human blood, blood products, and body fluids.

5. Other materials which in the opinion of the generator represent a significant risk of infection to persons outside of the facility which generates the materials.

Section 49. Section 395.0101, Florida Statutes, is amended to read:

395.0101 Identification, segregation, and separation of *biohazardous* ~~infectious~~ waste.—Each hospital and ambulatory surgical center shall ensure that *biohazardous* ~~infectious~~ waste is properly identified, segregated, and separated from other solid waste at the generating facility. Any transporter or potential transporter of such waste shall be notified of the existence and locations of such waste.

Section 50. *Use of private services in solid waste management.—In providing services or programs for solid waste management, local governments and state agencies should use the most cost-effective means for the provision of services and are encouraged to contract with private persons for any or all of such services or programs if the private persons can perform such services or programs on a more cost-effective basis.*

Section 51. Section 212.0605, Florida Statutes, is created to read:

212.0605 Employing unit reporting fee.—

(1) As used in this section:

(a) For the purpose of this section an employing unit is any unit of employment for which the Division of Unemployment Compensation of the Department of Labor and Employment Security has calculated a tax rate for the current year in its usual manner as required by Chapter 443, Florida Statutes, provided that the average number of employees is not less than 1.

(b) "Average number of employees" means the average of the number of employees reported on the employer quarterly tax reports during the previous calendar year rounded to the nearest whole number.

(2)(a) There is hereby imposed an employing unit reporting fee based on the following schedule of average number of employees:

Average Number of Employees	*Total Fee*
1-3	*$25*
4-9	*75*
10-19	*200*
20-49	*250*
50-99	*400*
100-249	*800*
250-499	*1000*
500-999	*1500*
1000 and above	*5000*

(b) Political subdivisions exempted under s. 212.08(6) and organizations exempted under s. 212.08(7)(o) shall not be subject to the fee imposed under paragraph (a).

(3) The fee shall be due on March 1, 1989, and on March 1 of every year thereafter, and payable by the 20th of the month. To the extent possible, the department shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under the provisions of this part, except as provided in this section. The provisions of this part regarding interest and penalties on delinquent taxes shall apply to the fee. The fee shall not be included in the calculation of estimated taxes pursuant to s. 212.11(1)(a), nor shall the dealer's credit for collecting taxes or fees provided in s. 212.12 apply to this fee. Notwithstanding any other provision of law, a dealer shall not separately state the amount of the fee on the charge ticket, sales slip, invoice or other tangible evidence of sale. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. Notwithstanding the provisions of ss. 212.20 and 212.235, the proceeds of this fee, less the costs of administration, shall be transferred to the Solid Waste Management Trust Fund, established under s. 403.709. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder, and shall be only those costs solely and directly attributable to the fee.

(4) This section shall be repealed October 1, 1996.

Section 52. Subsections (3) and (4) of section 197.102, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

197.102 Definitions.—As used in this chapter, the following definitions apply, unless the context clearly requires otherwise:

(3) "Tax certificate" means the document issued when *the combined total of* any real property *ad valorem* taxes *and non-ad valorem* ~~or special~~ assessments collectible under this chapter *becomes* ~~become~~ delinquent and *the combined total of* such taxes *and non-ad valorem* ~~or~~ assessments *is* ~~are~~ paid by a person who is not the property owner or acting as an agent of the property owner or when *the combined total of* such taxes *and non-ad valorem* ~~or~~ assessments *is* ~~are~~ not paid and the certificate is issued to the county in which the real property lies.

(4) "Tax notice" means the tax bill sent to taxpayers for payment of any taxes or special assessments collected pursuant to this chapter, *or the bill sent to taxpayers for payment of the total of ad valorem taxes and non-ad valorem assessments collected pursuant to s. 197.3632.*

(7) When a local government uses the method set forth in s. 197.3632, the following definitions shall apply:

(a) "Ad valorem tax roll" means the roll prepared by the property appraiser and certified to the tax collector for collection.

(b) "Non-ad valorem assessment roll" means a roll prepared by a local government and certified to the tax collector for collection.

Section 53. Subsection (3) of section 197.322, Florida Statutes, is amended to read:

197.322 Delivery of *ad valorem tax and non-ad valorem* assessment *rolls* ~~roll~~; notice of taxes; publication and mail.—

(3) Within 20 *working* days after receipt of the certified *ad valorem tax roll and the non-ad valorem assessment rolls* ~~roll~~, the tax collector shall mail to each taxpayer appearing on *said rolls* ~~the assessment roll~~, whose post-office address is known to him, a tax notice stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment. *Pursuant to s. 197.3632, the form of the notice of non-ad valorem assessments and notice of ad valorem taxes shall be as provided in s. 197.3635 and no other form shall be used, notwithstanding the provisions of s. 195.022.* The notice shall be accompanied by a printed statement as provided in s. 197.342. The postage shall be paid out of the general fund of *each local governing board* ~~the county~~, upon statement thereof by the tax collector.

Section 54. Subsections (1) and (3) of section 197.363, Florida Statutes, are renumbered and amended, subsections (2) and (4) are renumbered as subsections (3) and (5), respectively, and new subsections (1) and (6) are added to said section, to read:

197.363 Special assessments and service charges; optional method of collection.—

(1) At the option of the property appraiser, special assessments collected pursuant to this section prior to the effective date of this act may be collected pursuant to this section after the effective date of this act.

(2)~~(1)~~ *In accordance with subsection (1)* ~~Notwithstanding other provisions of law~~, special assessments authorized by general or special law or the State Constitution may be collected as provided for ad valorem taxes under this chapter if:

(a) The entity imposing the special assessment has entered into a written agreement with the property appraiser, at his option, providing for reimbursement of administrative costs incurred under this section;

(b) A resolution authorizing use of this method for collection of special assessments is adopted at a public hearing;

(c) Affected property owners have been provided by first-class mail prior notice of both the potential for loss of title that exists with use of this collection method and the time and place of the public hearing required by paragraph (b);

(d) The property appraiser has listed on the assessment roll the special assessment for each affected parcel;

(e) The dollar amount of the special assessment has been included in the notice of proposed property taxes; and

(f) The dollar amount of the special assessment has been included in the tax notice issued pursuant to s. 197.322.

(4)~~(3)~~ If the requirements of subsection *(2)* ~~(1)~~ which are imposed upon the collection of special assessments are not met, the collection of such special assessments shall be by the manner provided in the ordinance or resolution establishing such special assessments. The manner of collection established in any ordinance or resolution shall be in compliance with all general or special laws authorizing the levy of such special assessments, and in no event shall the ordinance or resolution provide for use of the ad valorem collection method.

(6) Effective January 1, 1990, no new special assessments may be collected pursuant to this section.

Section 55. Section 197.3631, Florida Statutes, is created to read:

197.3631 Non-ad valorem assessments; general provisions.—Effective October 1, 1989, non-ad valorem assessments as defined in s. 197.3632 may be collected pursuant to the method provided for in ss. 197.3632 and 197.3635. The method specified in s. 197.3632 is one authorized alternative for imposing non-ad valorem assessments by local governing boards. Non-ad valorem assessments may also be collected pursuant to any alternative method which is authorized by law, but such alternative method shall not require the tax collector or property appraiser to perform those services as provided for in ss. 197.3632 and 197.3635. However, a property appraiser or tax collector may contract with a local government to supply information and services necessary for any such alternative method. Any county operating under a charter adopted pursuant to s. 11, Art. VIII of the Constitution of 1885, as amended, as referred to in s. 6(e), Art. VIII of the Constitution of 1968, as amended, may use any method authorized by law for imposing and collecting non-ad valorem assessments.

Section 56. Section 197.3632, Florida Statutes, is created to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(1) As used in this section:

(a) "Levy" means the imposition of a non-ad valorem assessment, stated in terms of rates, against all appropriately located property by a governmental body authorized by law to impose non-ad valorem assessments.

(b) "Local government" means a county, municipality, or special district levying non-ad valorem assessments.

(c) "Local governing board" means a governing board of a local government.

(d) "Non-ad valorem assessment" means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.

(e) "Non-ad valorem assessment roll" means the roll prepared by a local government and certified to the tax collector for collection.

(f) "Compatible electronic medium" or "media" means machine-readable electronic repositories of data and information, including, but not limited to, magnetic disk, magnetic tape, and magnetic diskette technologies, which provide, without modification, that the data and information therein are in harmony with and can be used in concert with the data and information on the ad valorem tax roll keyed to the property identification number used by the property appraiser.

(2) A local governing board shall enter into a written agreement with the property appraiser and tax collector providing for reimbursement of necessary administrative costs incurred under this section. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming.

(3)(a) Notwithstanding any other provision of law to the contrary, a local government which is authorized to impose a non-ad valorem assessment and which elects to use the uniform method of collecting such assessment as authorized in this section shall adopt a resolution at a public hearing prior to January 1. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the department by January 10.

(b) Annually by June 1, the property appraiser shall provide each local government using the uniform method with the following information by list or compatible electronic medium: the legal description of the property within the boundaries described in the resolution, and the names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform in format to that contained on the ad valorem roll submitted to the department. The property appraiser is not required to submit information which is not on the ad valorem roll or compatible electronic medium submitted to the department. If the local government determines that the information supplied by the property appraiser is insufficient for the local government's purpose, the local government shall obtain additional information from any other source.

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between June 1 and September 15, if:

1. The non-ad valorem assessment is levied for the first time;

2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;

3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or

4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

(b) At least 20 days prior to the public hearing, the local government shall notice the hearing by first class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the local government will collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time and place of the hearing. The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

(c) At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons. The local governing board may adjourn the hearing from time to time. If the local governing board adopts the non-ad valorem assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment. Notwithstanding the notices provided for in paragraph (b), the local governing board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the board will provide or has provided to the property with the revenue generated by the assessment.

(5) By September 15 of each year, the chairman of the local governing board or his designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chairman or his designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

(6) If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll. However, the local governing board shall annually inform the property appraiser, tax collector, and department by January 10 if it intends to continue using the uniform method of collecting such assessment.

(7) Non-ad valorem assessments collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge a non-ad valorem assessment roll to produce such a notice, he shall mail a separate notice of non-ad valorem assessments or he shall direct the local government to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the local government and taxpayers of such a separate mailing, and the adverse effects to the taxpayers of delayed and multiple notices. The local government whose roll could not be merged shall bear all costs associated with the separate notice.

(8)(a) Non-ad valorem assessments collected pursuant to this section shall be subject to all collection provisions of this chapter, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(b) Within 30 days following the hearing provided in subsection (4), any person having any right, title, or interest in any parcel against which an assessment has been levied may elect to prepay the same in whole, and the amount of such assessment shall be the full amount levied, reduced, if the local government so provides, by a discount equal to any portion of the assessment which is attributable to the parcel's proportionate share of any bond financing costs, provided the errors and insolvency procedures available for use in the collection of ad valorem taxes pursuant to s. 197.492 are followed.

(c) Non-ad valorem assessments shall also be subject to the provisions of s. 192.091(2)(b), or the tax collector at his option shall be compensated for the collection of non-ad valorem assessments based on the actual cost of collection, whichever is greater.

(9) The department shall adopt rules to implement the provisions of this section.

Section 57. Section 197.3635, Florida Statutes, is created to read:

197.3635 Combined notice of ad valorem taxes and non-ad valorem assessments; requirements.—A form for the combined notice of ad valorem taxes and non-ad valorem assessments shall be produced and paid for by the tax collector. The form shall meet the requirements of this section and department rules and shall be subject to approval by the department. By rule the department shall provide a format for the form of such combined notice. The form shall meet the following requirements:

(1) It shall contain the title "Notice of Ad Valorem Taxes and Non-ad Valorem Assessments." It shall also contain a receipt part that can be returned along with the payment to the tax collector.

(2) It shall provide a clear partition between ad valorem taxes and non-ad valorem assessments. Such partition shall be a bold horizontal line approximately 1/8 inch thick.

(3) Within the ad valorem part, it shall contain the heading "Ad Valorem Taxes." Within the non-ad valorem assessment part, it shall contain the heading "Non-ad Valorem Assessments."

(4) It shall contain the county name, the assessment year, the mailing address of the tax collector, the mailing address of one property owner, the legal description of the property to at least 25 characters, and the unique parcel or tax identification number of the property.

(5) It shall provide for the labeled disclosure of the total amount of combined levies and the total discounted amount due each month when paid in advance.

(6) It shall provide a field or portion on the front of the notice for official use for data to reflect codes useful to the tax collector.

(7) The combined notice shall be set in type which is 8 points or larger.

(8) The ad valorem part shall contain the following:

(a) A schedule of the assessed value, exempted value, and taxable value of the property.

(b) Subheadings for columns listing taxing authorities, corresponding millage rates expressed in dollars and cents per $1,000 of taxable value, and the associated tax.

(c) Taxing authorities listed in the same sequence and manner as listed on the notice required by s. 200.069(4)(a), with the exception that independent special districts, municipal service taxing districts, and voted debt service millages for each taxing authority shall be listed separately. If a county has too many municipal service taxing units to list separately, it shall combine them to disclose the total number of such units and the amount of taxes levied.

(9) Within the non-ad valorem assessment part, it shall contain the following:

(a) Subheadings for columns listing the levying authorities, corresponding assessment rates expressed in dollars and cents per unit of assessment, and the associated assessment amount.

(b) The purpose of the assessment, if the purpose is not clearly indicated by the name of the levying authority.

(c) A listing of the levying authorities in the same order as in the ad valorem part to the extent practicable. If a county has too many municipal service benefit units to list separately, it shall combine them by function.

(10) It shall provide instructions and useful information to the taxpayer. Such information and instructions shall be nontechnical to minimize confusion. The information and instructions required by this section shall be provided by department rule and shall include:

(a) Procedures to be followed when the property has been sold or conveyed.

(b) Instruction as to mailing the remittance and receipt along with a brief disclosure of the availability of discounts.

(c) Notification about delinquency and interest for delinquent payment.

(d) Notification that failure to pay the amounts due will result in a tax certificate being issued against the property.

(e) A brief statement outlining the responsibility of the tax collector, the property appraiser, and the taxing authorities. This statement shall be accompanied by directions as to which office to contact for particular questions or problems.

Section 58. This act shall take effect October 1, 1988.

Amendment 2—On page 1, line 2, through page 8, line 24, strike all of said lines and insert: An act relating to solid waste; amending s. 403.701, F.S.; renaming the "Florida Resource Recovery and Management Act" as the "Florida Solid Waste Management Act"; amending s. 403.702, F.S.; revising findings and purpose with respect to the act; amending s. 403.703, F.S.; revising definitions; amending ss. 316.003 and 319.30, F.S., to conform; amending s. 403.704, F.S.; revising powers and duties of the Department of Environmental Regulation under the act; amending s. 403.7045, F.S.; revising the wastes and activities regulated under the act; creating s. 403.7049, F.S.; requiring counties and municipalities to determine the full cost for solid waste management and to provide certain cost information to users of solid waste management services; providing requirements regarding funding of such services; authorizing the charging of certain fees and providing for collection; amending s. 403.705, F.S.; providing for a state solid waste management program and providing requirements with respect thereto; requiring an annual report; amending s. 403.706, F.S.; requiring counties to prepare local solid waste management programs and submit them for department approval by specified dates; specifying goals for the reduction of solid waste; providing requirements for such programs; requiring a recycling program and providing requirements thereof; providing for joint development of programs by counties and municipalities; providing for determination of the agency responsible for a local program and for use of certain facilities; requiring certain notice; providing for program review; providing construction with respect to local ordinances and authority and duties of local governments; specifying application of the act to authorities or special districts with solid waste management responsibilities; requiring solid waste management facilities to measure solid waste by weight or by formulae approved by the Department of Environmental Regulation; creating s. 403.7061, F.S.; providing requirements for adoption of local solid waste management programs; providing for submission to municipalities for ratification; providing penalties applicable to counties that do not adopt a program or that do not meet solid waste reduction goals; authorizing the department to reduce or modify solid waste reduction goals; creating s. 403.7063, F.S.; providing for review and approval of local programs by the department; providing for implementation upon approval; providing procedures and penalties upon disapproval; creating s. 403.7064, F.S.; requiring certain municipalities to develop a recycling program by specified dates; providing requirements for such programs; providing requirements for adoption of such programs; providing procedures for determination of a franchisee or other person to undertake recycling responsibilities; providing for department approval of recycling programs; providing for implementation upon approval; providing procedures and penalties upon disapproval; providing penalties for municipalities that do not adopt a recycling program; amending s. 403.7065, F.S.; providing requirements with respect to procurement of products or materials with recycled content by governmental agencies; creating s. 403.7068, F.S.; authorizing the withholding of certain state funds from a county that does not adopt and implement a local solid waste management program or a municipality that does not adopt and implement a recycling program; amending s. 403.707, F.S.; providing requirements for permitting of solid waste management facilities; providing activities that do not require a permit; providing requirements applicable to disposal of construction and demolition debris; providing certain duties of water management districts; providing requirements with respect to construction permits; providing grounds for refusal of permits; requiring registration of persons who transport biohazardous waste; prohibiting certain discrimination; amending s. 403.708, F.S.; specifying prohibited activities and penalties; prohibiting the distribution or sale of products packaged in certain containers; requiring the labeling of plastic container products; prohibiting the disposal of specified solid wastes in landfills and other facilities; requiring the acceptance of used lead-acid batteries as trade-ins; amending s. 403.709, F.S.; eliminating provisions relating to grants for local resource recovery and management programs; creating the Solid Waste Management Trust Fund and specifying uses thereof; providing for grants to local governments; authorizing certain businesses to apply for a grant from the trust fund; requiring an annual report on the trust fund; amending s. 403.714, F.S.; specifying the duties of state agencies, the legislative and judicial branches, and the State University System with respect to collection of recyclable materials and waste reduction; specifying duties of certain state agencies regarding use of compost materials; providing duties of the Department of Education regarding collection of recyclable materials and solid waste reduction and instructional programs; providing duties of the district school boards; renumbering s. 203.10, F.S., relating to tax on gross receipts of commercial hazardous waste facilities; creating s. 403.7223, F.S.; directing the Department of Environmental Regulation to establish a hazardous substances reduction and waste reduction and elimination assistance program; amending s. 163.01, F.S.; providing that certain entities created under the Florida Interlocal Cooperation Act of 1969 may exercise the power of eminent domain; providing for application of certain privileges, immunities, and exemptions to such entities and their officers, agents, or employees; creating s. 287.05, F.S.; directing the Division of Purchasing to review and revise procurement procedures with respect to materials with recycled content or that may be recycled; providing requirements relating to invitations to bid; authorizing a price preference for certain bidders; authorizing requests to the division to evaluate certain products; providing duties of the Department of Commerce with respect to assisting and encouraging the recycling industry; requiring reports; amending s. 337.02, F.S.; directing the Department of Transportation to review and revise bid procedures with respect to materials with recycled content or that may be recycled; providing for coordination of activities related to solid and hazardous waste management conducted by state universities by the Board of Regents; providing for a study of commercial product packaging by institutions of the State University System and requiring a report; amending s. 403.75, F.S.; providing definitions relating to used oil; amending s. 403.751, F.S.; specifying prohibited actions with respect to used oil; amending s. 403.753, F.S.; providing duties of the Department of Environmental Regulation regarding procurement of recycled oils for government use; authorizing a price preference; amending s. 403.754, F.S.; revising provisions relating to registration of persons maintaining a used oil collection facility; providing an exemption from registration requirements; amending s. 403.7545, F.S.; correcting a reference; amending s. 403.757, F.S.; directing the nonprofit corporation organized to operate correctional work programs and the Department of Transportation to examine certain uses of used oil; requiring reports; amending s. 403.758, F.S.; correcting a reference; amending s. 403.759, F.S.; providing for deposit of proceeds relating to used oil in the Solid Waste Management Trust Fund; creating s. 403.760, F.S.; directing the department to encourage the establishment of public used oil collection centers and recycling programs; providing duties of such centers; providing duties of the Department of Agriculture and Consumer Services; providing conditions under which certain costs may not be recovered from owners or operators of such centers and certain authority may not be used against such persons; creating s. 403.761, F.S.; authorizing the department to establish an incentives program for return of used oil to a collection center; creating s. 403.763, F.S.; directing the department to develop a grants program for local governments to encourage reuse and proper disposal of used oil; creating s. 403.767, F.S.; providing for certification requirements for used oil transporters; creating s. 403.769, F.S.; requiring permits for the operation, modification, or closure of a used oil recycling facility; providing exemptions; requiring per-

mits for the collection or processing of waste tires; prohibiting disposal of waste tires except at permitted sites; specifying application to sites in existence on the effective date of the act; providing exemptions; providing for fees; providing for an incentives program; requiring persons selling new tires to pay a fee; providing duties of the Department of Revenue; providing for grants; prohibiting the sale of beverages in certain containers; authorizing the Division of Alcoholic Beverages and Tobacco and the Department of Agriculture and Consumer Services to impose fines for violations; providing for disposition of fines; prohibiting retail outlets from providing certain plastic bags to customers; providing a penalty; amending s. 377.709, F.S., relating to funding by electric utilities of local government solid waste facilities that generate electricity; revising a definition; directing the Public Service Commission to establish guidelines relating to purchase of capacity or energy by electric utilities from local government solid waste facilities; providing legislative intent that the state provide financial assistance for the establishment of Keep Florida Beautiful, Inc.; creating the Clean Florida Commission within the Department of Transportation to coordinate a statewide litter prevention program; providing its powers and duties; providing for grants to local governments and nonprofit organizations; requiring reports; creating s. 381.80, F.S.; providing for standards for the safe packaging, storage, treatment and disposal of biohazardous waste; providing duties of the Department of Health and Rehabilitative Services and the Department of Environmental Regulation; providing for enforcement and penalties; amending s. 395.002, F.S.; defining "biohazardous waste"; amending s. 395.0101, F.S., to conform; providing for contracting with private persons for solid waste management services; creating s. 212.0605, F.S.; imposing an employing unit reporting fee; providing exemptions; providing for administration, collection, interest and penalties; providing for disposition of fees; providing for repeal; providing requirements with respect to non-ad valorem assessments; amending s. 197.102, F.S.; redefining the terms "tax certificate" and "tax notice" and defining the terms "ad valorem tax roll" and "non-ad valorem assessment roll"; amending s. 197.322, F.S.; providing for notice of ad valorem taxes and non-ad valorem assessments; amending s. 197.363, F.S.; revising provisions relating to the method of collection of special assessments and service charges; restricting the application of such provisions; creating s. 197.3631, F.S.; providing general requirements relating to non-ad valorem assessments; creating s. 197.3632, F.S.; providing a uniform method for the levy, collection, and enforcement of non-ad valorem assessments; creating s. 197.3635, F.S.; providing for the form of combined notice of ad valorem taxes and non-ad valorem assessments; amending s. 403.413, F.S.; relating to the Florida Litter Law; providing for detainment under certain circumstances; providing additional penalties; providing an effective date.

On motions by Senator Kirkpatrick, the Senate refused to concur in the House amendments and the House was requested to recede and in the event the House refused to recede a conference committee was requested. The action of the Senate was certified to the House.

Conferees on CS for CS for SB 1192

The President appointed Senators Crawford, Kirkpatrick, Lehtinen; and alternates: Senators McPherson and Grizzle

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives again refused to recede from House Amendments 1 and 2 to CS for CS for SB 1192 and acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives Martin, Friedman, Dunbar; alternates Representatives Saunders and Draze as the Conferees on the part of the House.

John B. Phelps, Clerk

Reconsideration

On motion by Senator Girardeau, the Senate reconsidered the vote by which—

CS for SB 530—A bill to be entitled An act relating to drivers' licenses; amending s. 322.271, F.S.; providing requirements for obtaining and retaining an employment purposes driver's license; allowing a person whose license is revoked permanently to obtain an employment purposes license; amending s. 322.291, F.S.; requiring persons whose licenses were suspended for refusal to submit to the breath, urine, or blood test for impairment to enroll in a substance abuse course; specifying which course must be completed; amending s. 562.11, F.S.; requiring a court to suspend, for 1 year, the driver's license or driving privilege of a person convicted of misstating or misrepresenting a minor's age in order to induce another to provide alcoholic beverages to the minor; providing an effective date.

—as amended passed May 25.

Senator Girardeau moved the following amendment which was adopted by two-thirds vote:

Amendment 5—On page 2, line 30, strike "10" and insert: 5 ~~10~~

CS for SB 530 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Girardeau	Johnson	Myers
Beard	Gordon	Kirkpatrick	Peterson
Brown	Grant	Kiser	Plummer
Childers, D.	Grizzle	Langley	Ros-Lehtinen
Childers, W. D.	Hair	Lehtinen	Scott
Crenshaw	Hill	Malchon	Thomas
Deratany	Hollingsworth	Margolis	Thurman
Dudley	Jenne	McPherson	Weinstock
Frank	Jennings	Meek	Woodson

Nays—None

Vote after roll call:

Yea—Stuart

Motion

On motion by Senator Jennings, by two-thirds vote CS for HB 1288 was withdrawn from the Committee on Commerce.

On motion by Senator Jennings, by unanimous consent—

CS for HB 1288—A bill to be entitled An act relating to workers' compensation; amending s. 440.11, F.S., extending employer's immunity from liability for injury or death to apply to certain persons under certain circumstances; providing an effective date.

—was taken up out of order. On motions by Senator Jennings, by two-thirds vote CS for HB 1288 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Motions

On motion by Senator Thurman, **SB 1088** was ordered immediately certified to the House.

On motions by Senator Kiser, the rules were waived and **CS for CS for SB 399** and **SB 461** were ordered immediately certified to the House.

On motion by Senator Plummer, **SB 495** was ordered immediately certified to the House.

On motion by Senator Malchon, **CS for SB 90** was ordered immediately certified to the House.

SPECIAL ORDER

HB 702—A bill to be entitled An act relating to the Environmental Regulation Commission of the Department of Environmental Regulation; amending s. 403.804, F.S., relating to the powers and duties of the commission; deleting obsolete provisions; clarifying provisions relative to

specified studies of the economic and environmental impact of certain proposed standards; saving s. 20.261(3), F.S., relating to the creation of the Environmental Regulation Commission, from scheduled Sundown repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote HB 702 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Consideration of **CS for SB 522** was deferred.

CS for SB 594—A bill to be entitled An act relating to the sales tax; amending s. 212.08, F.S.; exempting charges for chartering a boat or vessel for fishing; providing an exception; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendment which was moved by Senator Barron and adopted:

Amendment 1—On page 1, strike all of line 22 and insert: *chartering any boat or vessel, with the crew furnished, solely for the purpose of*

On motion by Senator Barron, by two-thirds vote CS for SB 594 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

SB 827—A bill to be entitled An act relating to environmental control; amending s. 403.165, F.S., modifying source and expenditure of funds in the Pollution Recovery Fund; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Malchon and adopted:

Amendment 1—On page 1, lines 30 and 31, strike "or to otherwise enhance pollution control activities in such areas"

Senator Scott moved the following amendment which was adopted:

Amendment 2—On page 2, line 1, after "pay" insert: *administrative costs and*

On motion by Senator Malchon, by two-thirds vote SB 827 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

SB 311—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S., directing the Department of Natural Resources to establish coastal construction control lines on a county basis on certain barrier islands and inlet shores; providing exceptions; defining the term "inlet"; providing an effective date.

—was read the second time by title.

Four amendments were adopted to SB 311 to conform the bill to CS for CS for HB 118.

Pending further consideration of SB 311 as amended, on motion by Senator Brown, by two-thirds vote CS for CS for HB 118 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Brown, by two-thirds vote—

CS for CS for HB 118—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S.; defining the terms "sand beach," "coastal barrier island ends," and "coastal barrier islands"; providing restrictions on setting coastal construction control lines on coastal barrier island ends; amending s. 161.58, F.S.; relating to vehicular traffic on coastal beaches; providing an effective date.

—a companion measure, was substituted for SB 311 and by two-thirds vote read the second time by title.

Senator Brown moved the following amendment which was adopted:

Amendment 1—On page 4, strike line 9 and insert: ~~all or portions of the beaches under its jurisdiction.~~ Any such local government shall be authorized by a three-fifths vote of its governing body to charge a reasonable fee for vehicular traffic access. The revenues from any such fees shall be used only for beach maintenance; beach-related traffic management and parking; beach-related law enforcement and liability insurance; or beach-related sanitation, lifeguard, or other staff purposes. Except where authorized by the local government, any person driving any vehicle on, over, or across the beach shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

On motion by Senator Brown, by two-thirds vote CS for CS for HB 118 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Consideration of **CS for SB 1308** was deferred.

SB 281—A bill to be entitled An act relating to state parks and preserves; amending s. 258.391, F.S., relating to the Cockroach Bay Aquatic

Preserve; providing for future lease extensions of portions owned by the Tampa Port Authority; revising boundaries; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendments which were moved by Senator Beard and adopted:

Amendment 1—On page 2, between lines 29 and 30, insert:

Section 2. Paragraph (e)3. of subsection (3) of Section 258.42, Florida Statutes, is amended to read:

258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(e) There shall be no erection of structures within the preserve, except:

1. Private docks, including multislip docks that are nonrevenue generating or nonincome producing and are located within 1,000 feet of the maintained channel of the Atlantic Intracoastal Waterway, for reasonable ingress or egress of riparian owners.

2. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve.

3. Structures for shore protection, *including restoration of seawalls at their previous location or upland of or within eighteen (18) inches waterward of their previous location,* approved navigational aids, or public utility crossings authorized under subsection (3)(a) *may be approved.*

No structure under this paragraph or chapter 253 shall be prohibited solely because the local government fails to adopt a marina plan or other policies dealing with the siting of such structures in its local comprehensive plan.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 6, after "boundaries;" insert: revising restrictions relating to the restoration of seawalls in aquatic preserves;

On motion by Senator Beard, by two-thirds vote SB 281 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gordon	Kirkpatrick	Plummer
Beard	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crenshaw	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	

Nays—None

CS for HB 451—A bill to be entitled An act relating to state parks and preserves; amending s. 258.42, F.S., revising restrictions relating to the erection of private docks in aquatic preserves; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote CS for HB 451 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Childers, W. D.	Frank	Grizzle
Beard	Crenshaw	Girardeau	Hair
Brown	Deratany	Gordon	Hill
Childers, D.	Dudley	Grant	Hollingsworth
Jenne	Lehtinen	Myers	Thomas
Jennings	Malchon	Peterson	Thurman
Johnson	Margolis	Plummer	Weinstein
Kirkpatrick	McPherson	Ros-Lehtinen	Weinstock
Langley	Meek	Stuart	Woodson

Nays—None

SB 524—A bill to be entitled An act relating to the Department of Environmental Regulation; amending s. 20.261, F.S.; renaming the divisions within the department and creating a new division; amending s. 403.0876, F.S.; deleting reference to a renamed division; amending s. 403.805, F.S.; authorizing the Secretary of Environmental Regulation to adopt certain rules; prescribing power of the secretary to delegate authority; amending s. 403.809, F.S.; deleting reference to a renamed division; prescribing power of the secretary to delegate authority; repealing ss. 403.806, 403.807, 403.808, 403.8081, F.S., which prescribe powers and duties of divisions which are renamed; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Brown and adopted:

Amendment 1—On page 3, strike all of lines 21-23 and insert: assistant secretary, division directors, ~~and~~ district and branch office managers, and ~~to~~ the water management districts. ~~The secretary~~

On motion by Senator Brown, by two-thirds vote SB 524 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hair	Margolis	Thurman
Childers, W. D.	Hill	McPherson	Weinstein
Crenshaw	Hollingsworth	Meek	Weinstock
Deratany	Jenne	Myers	Woodson
Dudley	Jennings	Peterson	
Frank	Johnson	Plummer	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

SB 673—A bill to be entitled An act relating to hunting and fishing licenses; amending s. 372.561, F.S.; prescribing responsibility of tax collectors for fees for licenses and stamps; requiring tax collectors to report lost or stolen licenses or stamps to the Game and Fresh Water Fish Commission; requiring each county tax collector to report the recovery or discovery of lost or stolen licenses or stamps to the commission; authorizing the commission to charge a tax collector the fees for lost licenses or stamps that exceed a limit specified by the commission; amending s. 372.574, F.S.; revising the bonding requirement for a subagent appointed by a county tax collector to sell or issue hunting, fishing, and trapping licenses; providing an effective date.

—was read the second time by title. On motion by Senator Hollingsworth, by two-thirds vote SB 673 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Langley	Ros-Lehtinen
Brown	Grant	Lehtinen	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hill	Margolis	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Deratany	Jenne	Meek	Weinstein
Dudley	Jennings	Myers	Weinstock
Frank	Johnson	Peterson	Woodson

Nays—None

Vote after roll call:

Yea—Kiser

On motion by Senator Weinstock, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 54 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 54—A bill to be entitled An act relating to condominiums; amending s. 718.115, F.S.; providing for additional expense items to be treated as common expenses; providing an effective date.

Amendment 1—On page 1, between lines 28 and 29, insert:

Section 2. Paragraph (g) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(g) Assessments.—The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly, in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. *Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed* ~~in actions taken pursuant to s. 718.116(4)(a)~~.

(Renumber subsequent section.)

Amendment 2—On page 1, in the title, line 4, after the semicolon, insert: amending s. 718.112, F.S., relating to the acceleration of condominium assessments;

Amendment 3—On page 1, between lines 28 and 29, insert:

Section 2. Subsection (1) of section 718.301, Florida Statutes, is amended to read:

718.301 Transfer of association control.—

(1) When unit owners other than the developer own 15 percent or more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of administration of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of administration of an association:

(a) Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(b) Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;

(c) When all the units that will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the developer in the ordinary course of business; or

(d) When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business, whichever occurs first. The developer is entitled to elect at least one member of the board of administration of an association as long as the developer holds for sale in the ordinary course of business at least 5 percent, in condominiums with fewer than 500 units, and 2 percent, in condominiums with more than 500 units, of the units in a condominium operated by the association. *Following the time the developer relinquishes control of the association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of reacquiring control of the association or selecting the majority members of the board of administration.*

(Renumber subsequent section.)

Amendment 4—On page 1, in the title, line 4, after the semicolon, insert: amending s. 718.301, F.S., relating to condominium developer voting after transfer of control to unit owners other than the developer;

Amendment 5—On page 1, between lines 28 and 29, insert:

Section 2. Subsection (1) of section 718.117, Florida Statutes, is amended to read:

718.117 Termination.—

(1) Unless otherwise provided in the declaration, the condominium property may be removed from the provisions of this chapter only by consent of all of the unit owners, evidenced by a recorded instrument to that effect, and upon the written consent by all of the holders of recorded liens affecting any of the condominium parcels. *Upon recordation of the instrument evidencing consent of all of the unit owners to terminate the condominium, the association shall notify the division within 30 working days of the termination and the date the document was recorded, the county where the document was recorded, and the book and page number of the public records where the document was recorded.*

(Renumber subsequent section.)

Amendment 6—On page 1, in the title, line 4, after the semicolon, insert: amending s. 718.117, F.S., relating to termination of condominiums;

Amendment 7—On page 1, between lines 28 and 29, insert:

Section 2. Section 719.1055, Florida Statutes, is created to read:

719.1055 Amendment of cooperative documents.—Unless otherwise provided in the cooperative documents as originally recorded, no amendment thereto may change the configuration or size of any cooperative unit in any material fashion, materially alter or modify the appurtenances of the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless the record owners of all other units approve the amendment.

(Renumber subsequent section.)

Amendment 8—On page 1, in the title, line 4, after the semicolon, insert: amending s. 719.1055, F.S., relating to the amendment of cooperative documents;

Amendment 11—On page 1, between lines 28 and 29, insert:

Section 2. Section 718.401, Florida Statutes, is amended to read:

718.401 Leaseholds.—

(1) A condominium may be created on lands held under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(a) ~~(1)~~ The leased land must be identified by a description that is sufficient to pass title, and the leased personal property must be identified by a general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility. In the alternative, the personal property may be identified by a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility. Unless the lease is of a unit, the identification of the land shall be supplemented by a survey showing the relation of the leased land to the land included in the common elements. This provision shall not prohibit adding additional land or personal property in accordance with the terms of the lease, provided there is no increase in rent or material increase in maintenance costs to the individual unit owner.

(b) ~~(2)~~ The lease shall not contain a reservation of the right of possession or control of the leased property by the lessor or any person other than unit owners or the association, and shall not create rights to possession or use of the leased property in any parties other than the association or unit owners of the condominium to be served by the leased prop-

erty, unless the reservations and rights created are conspicuously disclosed. Any provision for use of the leased property by anyone other than unit owners of the condominium to be served by the leased property shall require the other users to pay a fair and reasonable share of the maintenance and repair obligations and other exactions due from users of the leased property.

(c)~~(3)~~ The lease shall state the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units to be served shall not preclude enlargement of the facilities leased and an increase in their capacity, if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association. The provisions of this *paragraph* ~~subsection~~ do not apply if the lessor is the Government of the United States or this state or any political subdivision thereof or any agency of any political subdivision thereof.

(d)1.~~(4)(a)~~ In any action by the lessor to enforce a lien for rent payable or in any action by the association or a unit owner with respect to the obligations of the lessee or the lessor under the lease, the unit owner or the association may raise any issue or interpose any defense, legal or equitable, that he or it may have with respect to the lessor's obligations under the lease. If the unit owner or the association initiates any action or interposes any defense other than payment of rent under the lease, the unit owner or the association shall, upon service of process upon the lessor, pay into the registry of the court any allegedly accrued rent and the rent which accrues during the pendency of the proceeding, when due. If the unit owner or the association fails to pay the rent into the registry of the court, the failure constitutes an absolute waiver of the unit owner's or association's defenses other than payment, and the lessor is entitled to default. The unit owner or the association shall notify the lessor of any deposits. When the unit owner or the association has deposited the required funds into the registry of the court, the lessor may apply to the court for disbursement of all or part of the funds shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping the leased facilities or necessary for the payment of other expenses arising out of personal hardship resulting from the loss of rental income from the leased facilities. The court, after an evidentiary hearing, may award all or part of the funds on deposit to the lessor for such purpose. The court shall require the lessor to post bond or other security, as a condition to the release of funds from the registry, when the value of the leased land and improvements, apart from the lease itself, is inadequate to fully secure the sum of existing encumbrances on the leased property and the amounts released from the court registry.

2.~~(b)~~ When the association or unit owners have deposited funds into the registry of the court pursuant to this subsection and the unit owners and association have otherwise complied with their obligations under the lease or agreement, other than paying rent into the registry of the court rather than to the lessor, the lessor cannot hold the association or unit owners in default on their rental payments, nor may the lessor file liens or initiate foreclosure proceedings against unit owners. If the lessor, in violation of this subsection, attempts such liens or foreclosures, then the lessor may be liable for damages plus attorney's fees and costs that the association or unit owners incurred in satisfying those liens or foreclosures.

3.~~(c)~~ Nothing in this *paragraph* ~~subsection~~ affects litigation commenced prior to October 1, 1979.

(e)~~(5)~~ If the lease is of recreational facilities or other commonly used facilities that are not completed, rent shall not commence until some of the facilities are completed. Until all of the facilities leased are completed, rent shall be prorated and paid only for the completed facilities in the proportion that the value of the completed facilities bears to the estimated value, when completed, of all of the facilities that are leased. The facilities shall be complete when they have been constructed, finished, and equipped and are available for use.

(f)1.~~(6)(a)~~ A lease of recreational or other commonly used facilities entered into by the association or unit owners prior to the time when the control of the association is turned over to unit owners other than the developer shall grant to the lessee an option to purchase the leased property, payable in cash, on any anniversary date of the beginning of the lease term after the 10th anniversary, at a price then determined by agreement. If there is no agreement as to the price, then the price shall be determined by arbitration. *This paragraph shall be applied to all such leases, including those entered into prior to January 1, 1977.*

2.~~(b)~~ If the lessor wishes to sell his interest and has received a bona fide offer to purchase it, the lessor shall send the association and each unit owner a copy of the executed offer. For 90 days following receipt of the offer by the association or unit owners, the association or unit owners have the option to purchase the interest on the terms and conditions in the offer. The option shall be exercised, if at all, by notice in writing given to the lessor within the 90-day period. If the association or unit owners do not exercise the option, the lessor shall have the right, for a period of 60 days after the 90-day period has expired, to complete the transaction described in the offer to purchase. If for any reason such transaction is not concluded within the 60 days, the offer shall have been abandoned, and the provisions of this subsection shall be reimposed.

3.~~(c)~~ The option shall be exercised upon approval by owners of two-thirds of the units served by the leased property.

4.~~(d)~~ The provisions of this *paragraph* ~~subsection~~ do not apply to a nonresidential condominium and do not apply if the lessor is the Government of the United States or this state or any political subdivision thereof or, in the case of an underlying land lease, a person or entity which is not the developer or directly or indirectly owned or controlled by the developer and did not obtain, directly or indirectly, ownership of the leased property from the developer.

(g)~~(7)~~ The lease or a subordination agreement executed by the lessor must provide either:

1.~~(a)~~ That any lien which encumbers a unit for rent or other moneys or exactions payable is subordinate to any mortgage held by an institutional lender, or

2.~~(b)~~ That, upon the foreclosure of any mortgage held by an institutional lender or upon delivery of a deed in lieu of foreclosure, the lien for the unit owner's share of the rent or other exactions shall not be extinguished but shall be foreclosed and unenforceable against the mortgagee with respect to that unit's share of the rent and other exactions which mature or become due and payable on or before the date of the final judgment of foreclosure, in the event of foreclosure, or on or before the date of delivery of the deed in lieu of foreclosure. The lien may, however, automatically and by operation of the lease or other instrument, reattach to the unit and secure the payment of the unit's proportionate share of the rent or other exactions coming due subsequent to the date of final decree of foreclosure or the date of delivery of the deed in lieu of foreclosure.

The provisions of this *paragraph* ~~subsection~~ do not apply if the lessor is the Government of the United States or this state or any political subdivision thereof or any agency of any political subdivision thereof.

~~(8)(a) It is declared that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in land leases or other leases or agreements for recreational facilities, land, or other commonly used facilities serving residential condominiums, and such clauses are hereby declared void for public policy. For the purposes of this section, an escalation clause is any clause in a condominium lease or agreement which provides that the rental under the lease or agreement shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.~~

~~(b) The provisions of this subsection do not apply if the lessor is the Government of the United States or this state or any political subdivision thereof or any agency of any political subdivision thereof.~~

(2)~~(9)~~ *Subsection (1) does* ~~Subsections (1) through (7) do~~ not apply to residential cooperatives created prior to January 1, 1977, which are converted to condominium ownership by the cooperative unit owners or their association after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion.

(3)~~(10)~~ If rent under the lease is a fixed amount for the full duration of the lease, and the rent thereunder is payable by a person or persons other than the association or the unit owners, the division director has the discretion to accept alternative assurances which are sufficient to secure the payment of rent, including, but not limited to, annuities with an insurance company authorized to do business in this state, the beneficiary of which shall be the association, or cash deposits in trust, the beneficiary of which shall be the association, which deposit shall be in an amount sufficient to generate interest sufficient to meet lease payments as they occur. If alternative assurances are accepted by the division director, the following provisions are applicable:

(a) Disclosures contemplated by paragraph (1)(b) ~~subsection (2)~~, if not contained within the lease, may be made by the developer.

(b) Disclosures as to the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property, if not contained in the lease, may be stated by the developer.

(c) The provisions of *paragraphs (1)(d) and (e)* ~~subsections (4) and (5)~~ apply but are not required to be stated in the lease.

(d) The provisions of *paragraph (1)(g)* ~~subsection (7)~~ do not apply.

Section 3. Section 718.4015, Florida Statutes, is created to read:

718.4015 Condominium leases; escalation clauses.—

(1) It is declared that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in land leases or other leases or agreements for recreational facilities, land, or other commonly used facilities serving residential condominiums, and such clauses are hereby declared void for public policy. For the purposes of this section, an escalation clause is any clause in a condominium lease or agreement which provides that the rental under the lease or agreement shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.

(2) The provisions of subsection (1) do not apply if the lessor is the Government of the United States or this state or any political subdivision thereof or any agency of any political subdivision thereof. The application of subsection (1) to contracts entered into prior to June 4, 1975, may not divest the parties of any benefits or obligations arising from the escalation of fees prior to October 1, 1988, but only prohibits further escalation of fees pursuant to the escalation clauses, on or after October 1, 1988.

Section 4. Section 719.401, Florida Statutes, is amended to read:

719.401 Leaseholds.—

(1) A cooperative may be created on lands held under lease or may include recreational facilities or other common elements or commonly used facilities on a leasehold, if, on the date the first unit is conveyed by the developer to a bona fide purchaser, the lease has an unexpired term of at least 50 years. If rent under the lease is payable by the association or by the unit owners, the lease shall include the following requirements:

(a)~~(1)~~ The leased land must be identified by a description that is sufficient to pass title, and the leased personal property must be identified by a general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility. In the alternative, the personal property may be identified by a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility. Unless the lease is of a unit, the identification of the land shall be supplemented by a survey showing the relation of the leased land to the land included in the common areas. This provision shall not prohibit adding additional land or personal property in accordance with the terms of the lease, provided there is no increase in rent or material increase in maintenance costs to the individual unit owner.

(b)~~(2)~~ The lease shall not contain a reservation of the right of possession or control of the leased property by the lessor or any person other than unit owners or the association, and shall not create rights to possession or use of the leased property in any parties other than the association or unit owners of the cooperative to be served by the leased property, unless the reservations and rights created are conspicuously disclosed. Any provision for use of the leased property by anyone other than unit owners of the cooperatives to be served by the leased property shall require the other users to pay a fair and reasonable share of the maintenance and repair obligations and other exactions due from users of the leased property.

(c)~~(3)~~ The lease shall state the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease and the maximum number of units that will be served by the leased property. The limitation of the number of units to be served shall not preclude enlargement of the facilities leased and an increase in their capacity, if approved by the association operating the leased property after unit owners other than the developer have assumed control of the association. This *paragraph* ~~subsection~~ does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or any political subdivision thereof.

(d)1.~~(4)(a)~~ In any action by the lessor to enforce a lien for rent payable or in any action by the association or a unit owner with respect to the obligations of the lessee or the lessor under the lease, the unit owner or the association may raise any issue or interpose any defenses, legal or equitable, that he or it may have with respect to the lessor's obligations under the lease. If the unit owner or the association initiates any action or interposes any defense other than payment of rent under the lease, the unit owner or the association shall, upon service of process upon the lessor, pay into the registry of the court any allegedly accrued rent and the rent which accrues during the pendency of the proceeding, when due. If the unit owner or the association fails to pay the rent into the registry of the court, it shall constitute an absolute waiver of the unit owner's or association's defenses other than payment, and the lessor shall be entitled to default. The unit owner or the association shall notify the lessor of any deposits. When the unit owner or the association has deposited the required funds into the registry of the court, the lessor may apply to the court for disbursement of all or part of the funds shown to be necessary for the payment of taxes, mortgage payments, maintenance and operating expenses, and other necessary expenses incident to maintaining and equipping the leased facilities or necessary for the payment of other expenses arising out of personal hardship resulting from the loss of rental income from the leased facilities. The court, after an evidentiary hearing, may award all or part of the funds on deposit to the lessor for such purpose. The court shall require the lessor to post bond or other security, as a condition to the release of funds from the registry, when the value of the leased land and improvements, apart from the lease itself, is inadequate to fully secure the sum of existing encumbrances on the leased property and the amounts released from the court registry.

2.~~(b)~~ When the association or unit owners have deposited funds into the registry of the court pursuant to this subsection, and the unit owners and association have otherwise complied with their obligations under the lease or agreement, other than paying rent into the registry of the court rather than to the lessor, the lessor cannot hold the association or unit owners in default on their rental payments nor may the lessor file liens or initiate foreclosure proceedings against unit owners. If the lessor, in violation of this subsection, attempts such liens or foreclosures, then the lessor may be liable for damages plus attorney's fees and costs which the association or unit owners incurred in satisfying those liens or foreclosures.

3.~~(c)~~ Nothing in this *paragraph* ~~subsection~~ shall affect litigation commenced prior to October 1, 1979.

(e)~~(5)~~ If the lease is of recreational facilities or other commonly used facilities that are not completed, rent shall not commence until some of the facilities are completed. Until all of the facilities leased are completed, rent shall be prorated and paid only for the completed facilities in the proportion that the value of the completed facilities bears to the estimated value, when completed, of all of the facilities that are leased. The facilities shall be complete when they have been constructed, finished, and equipped and are available for use.

(f)1.~~(6)(a)~~ A lease of recreational or other commonly used facilities entered into by the association or unit owners prior to the time the control of the association is turned over to unit owners other than the developer shall grant to the lessee an option to purchase the leased property, payable in cash on any anniversary date of the beginning of the lease term after the 10th anniversary, at a price then determined by agreement. If there is no agreement as to the price, then the price shall be determined by arbitration. *This paragraph shall be applied to all such leases, including those entered into prior to January 1, 1977.*

2.~~(b)~~ If the lessor wishes to sell his interest and has received a bona fide offer to purchase it, the lessor shall send the association and each unit owner a copy of the executed offer. For 90 days following receipt of the offer by the association or unit owners, the association or unit owners have the option to purchase the interest on the terms and conditions in the offer. The option shall be exercised, if at all, by notice in writing given to the lessor within the 90-day period. If the association or unit owners do not exercise the option, the lessor shall have the right, for a period of 60 days after the 90-day period has expired, to complete the transaction described in the offer to purchase. If for any reason such transaction is not concluded within the 60 days, the offer shall have been abandoned, and the provisions of this subsection shall be reimposed.

3.~~(c)~~ The option shall be exercised upon approval by owners of two-thirds of the units served by the leased property.

4.~~(d)~~ The provisions of this *paragraph* ~~subsection~~ shall not apply to a nonresidential cooperative and shall not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or, in the case of an underlying land lease, a person or entity which is not the developer or directly or indirectly owned or controlled by the developer and did not obtain, directly or indirectly, ownership of the leased property from the developer.

(g)~~(7)~~ The lease or a subordination agreement executed by the lessor must provide either:

1.~~(a)~~ That any lien which encumbers a unit for rent or other moneys or exactions payable is subordinate to any mortgage held by an institutional lender, or

2.~~(b)~~ That, upon the foreclosure of any mortgage held by an institutional lender or upon delivery of a deed in lieu of foreclosure, the lien for the unit owner's share of the rent or other exactions shall not be extinguished, but shall be foreclosed and unenforceable against the mortgagee with respect to that unit's share of the rent and other exactions which mature or become due and payable on or before the date of the final judgment of foreclosure, in the event of foreclosure, or on or before the date of delivery of the deed in lieu of foreclosure. The lien may, however, automatically and by operation of the lease or other instrument, reattach to the unit and secure the payment of the unit's proportionate share of the rent or other exactions coming due subsequent to the date of final decree of foreclosure or the date of delivery of the deed in lieu of foreclosure.

This *paragraph* ~~subsection~~ does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or political subdivision thereof.

~~(8)(a) It is declared that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in land leases or other leases or agreements for recreational facilities, land, or other commonly used facilities serving residential cooperatives, and such clauses are hereby declared void for public policy. For the purposes of this section, an escalation clause is any clause in a cooperative lease or agreement which provides that the rental under the lease or agreement shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.~~

~~(b) This subsection does not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency or political subdivision thereof.~~

(2)~~(9)~~ If rent under the lease is a fixed amount for the full duration of the lease and the rent thereunder is payable by the association or the unit owners, the division director shall have the discretion to accept alternative assurances sufficient to secure the payment of rent, including, but not limited to, annuities with an insurance company authorized to do business in this state, the beneficiary of which shall be the association, or, cash deposits in trust, the beneficiary of which shall be the association, which deposit shall be at an amount sufficient to generate interest sufficient to meet lease payments as they occur. If alternative assurances are accepted by the division director, the following apply:

1.~~(a)~~ Disclosures contemplated by *paragraph (1)(b)* ~~subsection (2)~~, if not contained within the lease, may be made by the developer.

2.~~(b)~~ Disclosures as to the minimum number of unit owners that will be required, directly or indirectly, to pay the rent under the lease, and the maximum number of units that will be served by the leased property, if not contained in the lease, may be stated by the developer.

3.~~(c)~~ The provisions of *paragraphs (1)(d) and (e)* ~~subsections (4) and (5)~~ apply, but need not be stated in the lease.

4.~~(d)~~ The provisions of *paragraph (1)(g)* ~~subsection (7)~~ do not apply.

Section 5. Section 719.4015, Florida Statutes, is created to read:

719.4015 Cooperative leases; escalation clauses.—

(1) It is declared that the public policy of this state prohibits the inclusion or enforcement of escalation clauses in land leases or other leases or agreements for recreational facilities, land, or other commonly used facilities serving residential cooperatives, and such clauses are hereby declared void for public policy. For the purposes of this section, an escalation clause is any clause in a cooperative lease or agreement which provides that the rental under the lease or agreement shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.

(2) The provisions of subsection (1) do not apply if the lessor is the Government of the United States or the State of Florida or any political subdivision thereof or any agency of any political subdivision thereof. However, the provisions of subsection (1) apply to contracts entered into prior to, on, and after June 4, 1975, if the lessor is not the Government of the United States or this state or any political subdivision thereof. The application of subsection (1) to contracts entered into prior to June 4, 1975, may not divest the parties of any benefits or obligations arising from the escalation of fees prior to October 1, 1988, but only prohibits further escalation of fees pursuant to the escalation clauses, on or after October 1, 1988.

Section 6. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Amendment 12—On page 1, in the title, line 4, after the semicolon, insert: amending ss. 718.401 and 719.401, F.S.; providing for the application of certain options available to condominium and cooperative leases governing recreational facilities or other common elements and making technical changes; creating ss. 718.4015 and 719.4015, F.S.; prohibiting the enforcement of escalation clauses in certain existing condominium and cooperative leases and making technical changes;

Senator Weinstock moved the following amendment to House Amendment 6 which was adopted:

Amendment 1—In title, on page 1, lines 12 and 13, strike "F.S., relating to termination of condominiums" and insert: F.S.; providing for notice of recordation of instruments evidencing the removal of property from condominium status;

Senator Weinstock moved the following amendment to House Amendment 8 which was adopted:

Amendment 1—In title, on page 1, lines 12 and 13, strike "amending s. 719.1055, F.S., relating to the amendment of cooperative documents;" and insert: creating s. 719.1055, F.S.; prescribing limits on changes which may be made through amendment of cooperative documents;

Senator Weinstock moved the following amendments to House Amendment 11 which were adopted:

Amendment 1—On page 5, strike all of lines 12 and 13, and insert: *This paragraph shall be applied to contracts entered into on, before, or after January 1, 1977.*

Amendment 2—On page 13, strike all of lines 12 and 13, and insert: *shall be applied to contracts entered into on, before, or after January 1, 1977.*

On motions by Senator Weinstock, the Senate concurred in House Amendments 1, 2, 3, 4, 5, 7 and 12; concurred in House Amendments 6, 8 and 11 as amended and the House was requested to concur in the Senate amendments to the House amendments.

CS for SB 54 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Dudley	Hollingsworth	Lehtinen
Beard	Frank	Jenne	Malchon
Brown	Girardeau	Jennings	Margolis
Childers, D.	Grant	Johnson	McPherson
Childers, W. D.	Grizzle	Kirkpatrick	Meek
Crenshaw	Hair	Kiser	Myers
Deratany	Hill	Langley	Peterson

Plummer	Stuart	Weinstein
Ros-Lehtinen	Thomas	Weinstock
Scott	Thurman	Woodson

Nays—None

SPECIAL ORDER, continued

On motion by Senator Margolis, by two-thirds vote HB 780 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motions by Senator Margolis, by two-thirds vote—

HB 780—A bill to be entitled An act relating to landscape architecture; amending s. 481.301, F.S.; modifying purpose; amending s. 481.303, F.S.; modifying a definition; amending s. 481.305, F.S., relating to the Board of Landscape Architecture; deleting obsolete language; deleting annual report requirements; amending s. 481.306, F.S., revising rulemaking authority; amending s. 481.307, F.S.; expanding rulemaking authority relating to fees; providing a schedule of fees; amending ss. 481.309 and 481.311, F.S.; revising and clarifying certain examination and licensing requirements; creating s. 481.310, F.S.; requiring certain practical experience prior to licensure; amending s. 481.315, F.S.; revising requirements for license reactivation; amending s. 481.317, F.S.; revising requirements for temporary certification; amending s. 481.319, F.S.; deleting certain requirements relating to the practice of landscape architecture by a corporation or partnership; amending s. 481.321, F.S.; providing for use of a seal by registered landscape architects; requiring use of certificate numbers in advertising; amending s. 481.323, F.S.; providing a prohibition on the use of certain terms; amending s. 481.325, F.S.; modifying and providing additional grounds for disciplinary actions; amending s. 481.329, F.S.; revising an exemption for employees of state or local governments who perform landscape architectural services; requiring licensure under certain circumstances; repealing s. 481.331, F.S., relating to construction of statutes; creating a committee to delineate the conditions or circumstances under which landscape architects may submit permits for the design of stormwater management systems; saving part II of chapter 481, F.S., from Sunset repeal; providing for future review and repeal; providing effective dates.

—a companion measure, was substituted for CS for SB 40 and by two-thirds vote read the second time by title. On motion by Senator Margolis, by two-thirds vote HB 780 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Hair	Lehtinen	Stuart
Childers, D.	Hill	Margolis	Thomas
Childers, W. D.	Hollingsworth	McPherson	Thurman
Crenshaw	Jenne	Meek	Weinstein
Dudley	Jennings	Myers	Weinstock
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Woodson

Consideration of **CS for CS for SB 904, SB 113, House Bills 173, 174, 177, 178, 179, 180** and **181** was deferred.

SB 778—A bill to be entitled An act relating to education; amending s. 230.2316, F.S., relating to dropout prevention; revising criteria for participation in educational alternatives programs; providing an effective date.

—was read the second time by title.

Senators Gordon and Thurman offered the following amendment which was moved by Senator Gordon and adopted:

Amendment 1—On page 2, between lines 14 and 15, insert:

Section 2. Florida's Ounce of Prevention Fund Corporation Act.—

(1) SHORT TITLE.—This section may be cited as "Florida's Ounce of Prevention Fund Corporation Act."

(2) LEGISLATIVE INTENT.—The Legislature finds and declares that personal and public costs resulting from unintended and untimely adolescent parenthood are of great concern. Adolescent pregnancy interrupts and forestalls an adolescent's transition to adulthood and may result in discontinued formal education, reduced employment opportunity, an unstable marriage, and low income for the adolescent and health and developmental risks to children born of adolescent mothers. Sustained poverty, frustration, and hopelessness are often the long-term results of teenage pregnancy. It is the intent of the Legislature that a nonprofit corporation, to be known as "Florida's Ounce of Prevention Fund Corporation," be organized for the purpose of supporting the development of programs for the prevention of family problems that can result in child abuse and neglect, infant mortality, delayed development in children, and repeated cycles of teenage pregnancy.

(3) CORPORATION AUTHORIZATION; DUTIES; POWERS.—

(a) There is authorized the Florida's Ounce of Prevention Fund Corporation. The corporation shall be operated as a not-for-profit corporation.

(b) The corporation shall:

1. Provide for the development of community-based programs for preteens, young parents, and their families to foster positive values that will result in families raising strong and healthy children.

2. Provide for the development, monitoring, and evaluation of projects designed to address problems associated with repeated cycles of teenage pregnancy and parenthood.

3. Conduct research to aid in identifying causes of and potential solutions to teenage pregnancy.

4. Coordinate with and assist other agencies in developing innovative prevention programs that shall include, but not be limited to, developmental screening, child-parent enrichment programs, early childhood education, parent education, group and individual counseling, family support, activities designed to provide youth with alternatives to sexual involvement, educational and vocational skill building, job placement, home visiting, prenatal and well child care, mental health and developmental disabilities services, developmental day care, and community education. All materials used in Ounce of Prevention Programs relating to acquired immune deficiency syndrome, sexually transmitted diseases, or information on human sexuality shall include that abstinence from sexual activity until marriage and a mutually faithful monogamous relationship in the context of marriage is a certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems. Abstinence from sexual activity outside of marriage should be expected standard of behavior for all minor children participating in any Ounce of Prevention programs.

5. Provide training and technical assistance to enable community organizations such as churches, social service agencies, health clinics, schools, and other organizations to carry out prevention programs.

6. Provide an interim report to the Legislature by March 1, 1989, on the results of the program to date.

7. Secure staff necessary to properly administer the corporation. Staff costs may be funded from grant funds and state and private donations. The board of directors is authorized to determine the number of staff necessary to administer the corporation, but the staff shall include, at a minimum, an executive director, an assistant director, and a staff assistant.

8. Work in cooperation with and coordinate with those projects and activities associated with the Dropout Prevention Act, the Florida Employment Opportunity Act, and other services and programs of the Department of Health and Rehabilitative Services and the Department of Education.

(c) The corporation, which shall be operated as a nonprofit private corporation organized pursuant to chapter 617, Florida Statutes, shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including, but not limited to, the power to receive and accept grants, loans, and advances of funds from any public or private agency, for, or in aid of, the purposes of this section, and to receive and accept contributions, from any source, of money, property, labor, or any other thing of value, to be held, used, and applied for said purposes.

(4) BOARD OF DIRECTORS.—

(a) Florida's Ounce of Prevention Fund Corporation shall operate subject to the supervision and approval of a nine-member board of directors.

(b) The board of directors shall be appointed by the Governor, subject to confirmation by the Senate, and may be removed by the Governor. Terms of appointment shall be for 3 years. The board shall appoint the executive director, who shall be responsible for other staff as authorized by the board.

(c) Board members may be reimbursed from funds of the corporation for actual and necessary expenses incurred by them as members, as provided in s. 112.061, Florida Statutes, but shall not otherwise be compensated for their services.

(d) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of the board, or its employees or agents, for any action taken by them in the performance of their powers and duties under this section.

Section 3. There is herby appropriated the sum of $300,000 from the General Revenue Fund for the Florida's Ounce of Prevention Fund Corporation.

(Renumber subsequent section.)

Senator Thurman moved the following amendment which was adopted:

Amendment 2—On page 2, between lines 14 and 15, insert:

Section 2. Section 229.59, Florida Statutes, is amended to read:

229.59 Educational improvement projects.—

(1) Pursuant to rules adopted by the State Board of Education, each district school board, or each principal through the district school board, may submit to the commissioner for approval a proposal for implementing an educational improvement project. Such proposals shall be developed with the assistance of district and school advisory committees and may address any or all of the following areas:

(a) The improvement of school management*;*

(b) The improvement *of the*~~,~~ district and school advisory *committees;* ~~committee improvement,~~

(c) School volunteers~~,~~*;*

(d) The professional development of teachers; and

(e) The restructuring of educational programs to meet the needs of diverse students.

Such projects may also address any other educational area which would be improved through *the encouragement of* ~~a~~ closer working *relationships among the school principal, the teachers, and the parents and other members of the* ~~relationship between school and~~ community. Priority shall be given to proposals which provide for the inclusion of existing resources, such as district educational training funds, in the implementation of the educational improvement project.

(2) For each project approved, the commissioner shall authorize distribution of a grant~~, in an amount not less than $500 and not more than $5,000,~~ from funds available to the Department of Education for educational improvements projects. Promising innovations resulting from the implementation of such projects shall be *disseminated through publications, training programs, and conferences. Projects that are determined to be exceptional and innovative by the department may be further used as demonstration and training models for other projects* ~~included in the commissioner's annual report~~*. The Department of Education shall initiate field-based research to assess the impact of education improvement efforts.*

Section 3. Section 244.07, Florida Statutes, is hereby repealed.

(Renumber subsequent section.)

Senators Gordon and Thurman offered the following amendment which was moved by Senator Gordon and adopted:

Amendment 3—In title, on page 1, line 5, after the semicolon (;) insert: providing legislative intent; authorizing establishment of Florida's Ounce of Prevention Fund Corporation; providing powers and duties with respect to programs to address problems associated with adolescent pregnancy; providing for a board of directors and staff; providing for a report to the Legislature;

Senator Gordon moved the following amendments which were adopted:

Amendment 4—On page 1, line 9, insert:

Section 1. (1) This section may be cited as the "High School Community Service Act."

(2) The Department of Education shall request proposals from school districts which have a student enrollment of 25,000 or more for up to four pilot projects each to be conducted during the summer of 1989. The purpose of the projects is to involve high school students, on a voluntary basis, in activities that will provide a service or be of benefit to the communities in which the high school students reside.

(3) The school board of each eligible district which submits a proposal must establish a project committee consisting of representatives from at least the following groups and organizations:

(a) The district school board.

(b) Municipal and county governments in the school district.

(c) Civic groups from communities served by the school district.

(d) Local business and industry.

(e) State and federal agencies such as the Department of Natural Resources, the Department of Health and Rehabilitative Services, and the United States Department of Labor.

(4) Proposals must be developed by the local project committees and must involve students in activities that are designed to meet local community service needs such as:

(a) Assisting in providing day care services to children of working mothers.

(b) Providing support personnel for community recreation programs.

(c) Providing personnel to assist in the maintenance and improvement of local, state, and national parks.

(d) Providing support personnel for highway beautification projects.

(e) Providing support personnel for programs for elderly people.

(f) Renovating community housing.

(5) Proposals must be submitted to the department by school boards on behalf of project committees and, in addition to the activities listed in subsection (4), must meet the following requirements:

(a) Projects must be designed to include at least 100 students.

(b) Participating students must receive a stipend in an amount to be determined by the project committee.

(c) Participating students must receive one-half an elective credit.

(d) Project proposals must contain evaluation procedures to include activity completion rates or a measure of activity effectiveness, student participant attrition rates, participant discipline records, appropriateness of participation by students from all four high school grade levels, and tracking of student participants during the ensuing school year.

(e) Proposals may include provisions for residential activities, academic instruction related to an activity, and tutorial services based on student participant needs.

(6) The procedure for proposal selection is as follows:

(a) Proposals must be reviewed by the Board of Public Schools, which must make recommendations for approval or rejection to the Commissioner of Education.

(b) The commissioner must make the final proposal selection.

(c) The projects must be an egalitarian program and must be open to all students, but priority is to be given to proposals in which 40 to 60 percent of the participants are urban, economically disadvantaged students.

(7)(a) Funds for approved proposals shall be allocated to the school boards by the department and shall be an amount to be determined in the General Appropriations Act.

(b) The department shall encourage local project proposal committees to seek additional funding from local and federal sources.

(8)(a) A school board which implements a high school community service project shall, after consultation with its local project proposal committee, submit a report describing project evaluation results to the Commissioner of Education no later than January 1, 1990.

(b) The Commissioner of Education shall report to the Legislature no later than March 1, 1990, on the success of the pilot projects and the feasibility of statewide application.

(Renumber subsequent sections.)

Amendment 5—In title, on page 1, line 2, after the semicolon (;) insert: creating the High School Community Service Act; providing for pilot projects; providing a procedure for developing and submitting project proposals; describing project requirements; providing for selection, funding, and reporting;

Further consideration of **SB 778** as amended was deferred.

Senator Hair presiding

CS for SB 73—A bill to be entitled An act relating to student athletics; providing legislative purpose and intent; providing definitions including definitions of the terms "agent contract," "athlete agent," and "student athlete"; requiring biennial registration of athlete agents with the Department of Professional Regulation; providing criminal penalties for failing to register as required; requiring athlete agents and student athletes to notify higher education institutions if certain contracts are entered into; requiring agent contracts to contain a statement disclosing certain information to student athletes; providing that a contract is unenforceable if the required notification is not made; providing criminal penalties for failure to provide the required notification; creating a cause of action for failure to provide the required notification; providing for rescission of an agent contract by a student athlete; prohibiting postdated contracts; prohibiting certain actions; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 1—On page 3, line 15, after the period (.) insert: Failure of the student athlete to provide this notification is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Amendment 2—On page 3, line 28, after the period (.) insert: Failure of the athlete agent to provide this notification is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Amendment 3—On page 4, strike all of lines 18-22

Amendment 4—In title, on page 1, lines 17 and 18, strike "providing criminal penalties for failure to provide the required notification;"

Amendment 5— In title, on page 1, line 12, after the semicolon (;) insert: providing criminal penalties for failure to provide the required notification;

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 73 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Beard	Childers, W. D.	Frank	Grant
Brown	Deratany	Girardeau	Grizzle
Childers, D.	Dudley	Gordon	Hair
Hill	Kirkpatrick	Peterson	Thomas
Hollingsworth	Langley	Plummer	Thurman
Jenne	Lehtinen	Ros-Lehtinen	Weinstein
Jennings	McPherson	Scott	Weinstock
Johnson	Meek	Stuart	Woodson

Nays—None

On motions by Senator Meek, by two-thirds vote—

HB 957—A bill to be entitled An act relating to deferred-payment purchases made by community colleges; amending ss. 240.319, 287.064, F.S.; creating an option for a community college to have its deferred-payment purchases consolidated under master equipment financing agreements executed by the Division of Bond Finance; providing an effective date.

—a companion measure, was substituted for SB 203 and by two-thirds vote read the second time by title. On motion by Senator Meek, by two-thirds vote HB 957 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Gordon	Langley	Ros-Lehtinen
Brown	Grant	Lehtinen	Scott
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Hill	McPherson	Weinstein
Deratany	Hollingsworth	Meek	Weinstock
Dudley	Jenne	Myers	Woodson
Frank	Jennings	Peterson	
Girardeau	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Stuart

SB 898—A bill to be entitled An act relating to education; amending ss. 228.041 and 236.02, F.S.; providing for the designation of final examination days for secondary school students; providing for a decrease in the minimum length of the school day for such examination days; providing an effective date.

—was read the second time by title.

Four amendments were adopted to SB 898 to conform the bill to HB 247.

Pending further consideration of SB 898 as amended, on motion by Senator Ros-Lehtinen, by two-thirds vote HB 247 was withdrawn from the Committee on Education.

On motion by Senator Ros-Lehtinen—

HB 247—A bill to be entitled An act relating to education; amending s. 232.0225, F.S.; revising requirements for excused public school absences for religious instruction; providing for excused public school absences for observance of religious holidays; providing for district school board rules; creating s. 240.134, F.S.; requiring state university, community college, and vocational education school policies relating to religious observance by students; providing requirements; amending ss. 228.041 and 236.02, F.S.; providing for the designation of final examination days for secondary school students; providing for a decrease in the minimum length of the school day for such examination days; amending s. 232.246, F.S.; relating to high school graduation requirements; providing for the applicability of certain requirements; providing an effective date.

—a companion measure, was substituted for SB 898 and read the second time by title. On motion by Senator Ros-Lehtinen, by two-thirds vote HB 247 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Childers, W. D.	Frank	Grant
Brown	Deratany	Girardeau	Grizzle
Childers, D.	Dudley	Gordon	Hair

Hill	Kiser	Myers	Thurman
Hollingsworth	Lehtinen	Peterson	Weinstein
Jenne	Malchon	Ros-Lehtinen	Weinstock
Jennings	Margolis	Scott	Woodson
Johnson	Meek	Thomas	

Nays—None

SB 922—A bill to be entitled An act relating to public schools; creating s. 232.015, F.S.; requiring each public school student to provide certification that he has a social security number requiring the number to be in the student's permanent records; prohibiting his graduation from high school if the number is not in the records; providing an effective date.

—was read the second time by title. On motion by Senator Peterson, by two-thirds vote SB 922 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Grant	Kiser	Plummer
Brown	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Scott
Childers, W. D.	Hollingsworth	Malchon	Thomas
Crenshaw	Jenne	Margolis	Thurman
Dudley	Jennings	McPherson	Weinstein
Frank	Johnson	Meek	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson

Nays—None

Vote after roll call:

Yea—Girardeau, Stuart

CS for SB 1171—A bill to be entitled An act relating to ad valorem taxes; amending s. 193.023, F.S.; specifying methods for assessing cooperative parcels; amending s. 197.322, F.S.; specifying information which must be contained in tax notices; amending s. 197.342, F.S.; providing a title for a certain statement of tax information; amending s. 193.075, F.S.; correcting a cross-reference; amending s. 197.122, F.S.; providing for application of personal property tax liens; amending s. 197.202, F.S.; providing for destroying certain tax receipts; amending s. 200.065, F.S.; providing for notifying taxpayer's of millage rate adjustments; requiring certain ordinance or resolutions to be provided to certain persons within a certain time; amending s. 286.0105, F.S.; providing an exception to certain notice requirements; providing an effective date.

—was read the second time by title.

Senator Deratany moved the following amendments which were adopted:

Amendment 1—On page 2, lines 1-31, and on page 3, lines 1-9, strike all of said lines and insert:

Section 2. Notice of taxes; publication and mail.—

(1) Within 20 days after receipt of the certified roll, the tax collector shall mail to each taxpayer appearing on the assessment roll, whose post-office address is known to him, a tax notice stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment. The notice shall be accompanied by a printed statement as provided in s. 197.342, Florida Statutes. The postage shall be paid out of the general fund of the county, upon statement thereof by the tax collector. The form of the notice must contain:

(a) The name of the county, the tax year, and the complete mailing address of the tax collector for that county to which the taxpayer can return the receipt part of the tax notice;

(b) The complete mailing address for at least one of the owners of the property;

(c) The legal description of the property up to at least 25 characters and the unique parcel or tax identification number of the property;

(d) A disclosure, appropriately labeled, showing the total amount of combined levies and the total discounted amount due each month when paid in advance;

(e) A schedule listing the assessed value, exempted value, and taxable value of the property;

(f) Subheadings for columns listing the local governments, the corresponding millage rates expressed in dollars and cents per $1,000 of taxable value, and the associated tax amounts; and

(g) The names of the local governments listed in the same sequence and manner in which they were listed on the notice of proposed property taxes as required by s. 200.069(4)(a), Florida Statutes, with the exception that independent special districts, municipal service taxing units, and voted debt service millages for each local government must be listed separately. If a county has too many municipal service taxing units to list separately, it shall combine them to disclose the total number of such units and the amount of taxes levied.

(2) Notwithstanding s. 197.322(3), Florida Statutes, the provisions of this section shall be effective and shall operate only for tax year 1989.

Section 3. Effective January 1, 1990 and applicable to tax years beginning on or after that date, subsections (3) and (4) of section 197.102, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

197.102 Definitions.—As used in this chapter, the following definitions apply, unless the context clearly requires otherwise:

(3) "Tax certificate" means the document issued when *the combined total of* any real property *ad valorem* taxes *and non-ad valorem* ~~or special~~ assessments collectible under this chapter *becomes* ~~become~~ delinquent and *the combined total of* such taxes *and non-ad valorem* ~~or~~ assessments *is* ~~are~~ paid by a person who is not the property owner or acting as an agent of the property owner or when *the combined total of* such taxes *and non-ad valorem* ~~or~~ assessments *is* ~~are~~ not paid and the certificate is issued to the county in which the real property lies.

(4) "Tax notice" means the tax bill sent to taxpayers for payment of any taxes or special assessments collected pursuant to this chapter, *or the bill sent to taxpayers for payment of the total of ad valorem taxes and non-ad valorem assessments collected pursuant to s. 197.3632.*

(7) When a local government uses the method set forth in s. 197.3632, the following definitions shall apply:

(a) "Ad valorem tax roll" means the roll prepared by the property appraiser and certified to the tax collector for collection.

(b) "Non-ad valorem assessment roll" means a roll prepared by a local government and certified to the tax collector for collection.

Section 4. Effective January 1, 1990 and applicable to tax years beginning on or after that date, subsection (3) of section 197.322, Florida Statutes, is amended to read:

197.322 Delivery of *ad valorem tax and non-ad valorem* assessment *rolls* ~~roll~~; notice of taxes; publication and mail.—

(3) Within 20 *working* days after receipt of the certified *ad valorem tax roll and the non-ad valorem assessment rolls* ~~roll~~, the tax collector shall mail to each taxpayer appearing on *said rolls* ~~the assessment roll~~, whose post-office address is known to him, a tax notice stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment. *Pursuant to s. 197.3632, the form of the notice of non-ad valorem assessments and notice of ad valorem taxes shall be as provided in s. 197.3635 and no other form shall be used, notwithstanding the provisions of s. 195.022.* The notice shall be accompanied by a printed statement as provided in s. 197.342. The postage shall be paid out of the general fund of *each local governing board* ~~the county~~, upon statement thereof by the tax collector.

Section 5. Effective January 1, 1990 and applicable to tax years beginning on or after that date, subsections (1) and (3) of section 197.363, Florida Statutes, are renumbered and amended, subsections (2) and (4) are renumbered as subsections (3) and (5), respectively, and new subsections (1) and (6) are added to said section, to read:

197.363 Special assessments and service charges; optional method of collection.—

(1) At the option of the property appraiser, special assessments collected pursuant to this section prior to the effective date of this act may

be collected pursuant to this section after the effective date of this act. Provided, any local governing board collecting non ad valorem assessments pursuant to s. 197.363, F.S. on the effective date of this act may elect to collect said assessments pursuant to s. 197.3632, F.S. In the event of such election, the local governing board shall notify the property appraiser and tax collector in writing and comply with s. 197.3632(2), F.S., and the applicable certification provisions of s. 197.3632(5), F.S. If a local governing board amends any non ad valorem assessment roll certified under this provision, the local governing board shall comply with all applicable provisions of s. 197.3631, F.S.

(2)~~(1)~~ *In accordance with subsection (1)* ~~Notwithstanding other provisions of law~~, special assessments authorized by general or special law or the State Constitution may be collected as provided for ad valorem taxes under this chapter if:

(a) The entity imposing the special assessment has entered into a written agreement with the property appraiser, at his option, providing for reimbursement of administrative costs incurred under this section;

(b) A resolution authorizing use of this method for collection of special assessments is adopted at a public hearing;

(c) Affected property owners have been provided by first-class mail prior notice of both the potential for loss of title that exists with use of this collection method and the time and place of the public hearing required by paragraph (b);

(d) The property appraiser has listed on the assessment roll the special assessment for each affected parcel;

(e) The dollar amount of the special assessment has been included in the notice of proposed property taxes; and

(f) The dollar amount of the special assessment has been included in the tax notice issued pursuant to s. 197.322.

(4)~~(3)~~ If the requirements of subsection *(2)* ~~(1)~~ which are imposed upon the collection of special assessments are not met, the collection of such special assessments shall be by the manner provided in the ordinance or resolution establishing such special assessments. The manner of collection established in any ordinance or resolution shall be in compliance with all general or special laws authorizing the levy of such special assessments, and in no event shall the ordinance or resolution provide for use of the ad valorem collection method.

(6) Effective January 1, 1990, no new special assessments may be collected pursuant to this section.

Section 6. Effective January 1, 1990 and applicable to tax years beginning on or after that date, section 197.3631, Florida Statutes, is created to read:

197.3631 Non-ad valorem assessments; general provisions.—Non-ad valorem assessments as defined in s. 197.3632 may be collected pursuant to the method provided for in ss. 197.3632 and 197.3635. The method specified in s. 197.3632 is one authorized alternative for imposing non-ad valorem assessments by local governing boards. Non-ad valorem assessments may also be collected pursuant to any alternative method which is authorized by law, but such alternative method shall not require the tax collector or property appraiser to perform those services as provided for in ss. 197.3632 and 197.3635. However, a property appraiser or tax collector may contract with a local government to supply information and services necessary for any such alternative method. Any county operating under a charter adopted pursuant to s. 11, Art. VIII of the Constitution of 1885, as amended, as referred to in s. 6(e), Art. VIII of the Constitution of 1968, as amended, may use any method authorized by law for imposing and collecting non-ad valorem assessments.

Section 7. Effective January 1, 1990 and applicable to tax years beginning on or after that date, section 197.3632, Florida Statutes, is created to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(1) As used in this section:

(a) "Levy" means the imposition of a non-ad valorem assessment, stated in terms of rates, against all appropriately located property by a governmental body authorized by law to impose non-ad valorem assessments.

(b) "Local government" means a county, municipality, or special district levying non-ad valorem assessments.

(c) "Local governing board" means a governing board of a local government.

(d) "Non-ad valorem assessment" means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.

(e) "Non-ad valorem assessment roll" means the roll prepared by a local government and certified to the tax collector for collection.

(f) "Compatible electronic medium" or "media" means machine-readable electronic repositories of data and information, including, but not limited to, magnetic disk, magnetic tape, and magnetic diskette technologies, which provide, without modification, that the data and information therein are in harmony with and can be used in concert with the data and information on the ad valorem tax roll keyed to the property identification number used by the property appraiser.

(2) A local governing board shall enter into a written agreement with the property appraiser and tax collector providing for reimbursement of necessary administrative costs incurred under this section. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming.

(3)(a) Notwithstanding any other provision of law to the contrary, a local government which is authorized to impose a non-ad valorem assessment and which elects to use the uniform method of collecting such assessment as authorized in this section shall adopt a resolution at a public hearing prior to January 1. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the department by January 10.

(b) Annually by June 1, the property appraiser shall provide each local government using the uniform method with the following information by list or compatible electronic medium: the legal description of the property within the boundaries described in the resolution, and the names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform in format to that contained on the ad valorem roll submitted to the department. The property appraiser is not required to submit information which is not on the ad valorem roll or compatible electronic medium submitted to the department. If the local government determines that the information supplied by the property appraiser is insufficient for the local government's purpose, the local government shall obtain additional information from any other source.

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between June 1 and September 15, if:

1. The non-ad valorem assessment is levied for the first time;

2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;

3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or

4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

(b) At least 20 days prior to the public hearing, the local government shall notice the hearing by first class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number

of such units contained within each parcel; the total revenue the local government will collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time and place of the hearing. However, notice by mail shall not be required if notice by mail is otherwise required by general or special law governing a taxing authority and such notice is served at least 30 days prior to the authority's public hearing on adoption of a new or amended non-ad valorem assessment roll. The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

(c) At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons. The local governing board may adjourn the hearing from time to time. If the local governing board adopts the non-ad valorem assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment. Notwithstanding the notices provided for in paragraph (b), the local governing board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the board will provide or has provided to the property with the revenue generated by the assessment.

(5) By September 15 of each year, the chairman of the local governing board or his designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chairman or his designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

(6) If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll. However, the local governing board shall annually inform the property appraiser, tax collector, and department by January 10 if it intends to continue using the uniform method of collecting such assessment.

(7) Non-ad valorem assessments collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge a non-ad valorem assessment roll to produce such a notice, he shall mail a separate notice of non-ad valorem assessments or he shall direct the local government to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the local government and taxpayers of such a separate mailing, and the adverse effects to the taxpayers of delayed and multiple notices. The local government whose roll could not be merged shall bear all costs associated with the separate notice.

(8)(a) Non-ad valorem assessments collected pursuant to this section shall be subject to all collection provisions of this chapter, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(b) Within 30 days following the hearing provided in subsection (4), any person having any right, title, or interest in any parcel against which an assessment has been levied may elect to prepay the same in whole, and the amount of such assessment shall be the full amount levied, reduced, if the local government so provides, by a discount equal to any portion of the assessment which is attributable to the parcel's proportionate share of any bond financing costs, provided the errors and insolvency procedures available for use in the collection of ad valorem taxes pursuant to s. 197.492 are followed.

(c) Non-ad valorem assessments shall also be subject to the provisions of s. 192.091(2)(b), or the tax collector at his option shall be compensated for the collection of non-ad valorem assessments based on the actual cost of collection, whichever is greater. However, a municipal or county government shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments.

(9) The department shall adopt rules to implement the provisions of this section.

Section 8. Effective January 1, 1990 and applicable to tax years beginning on or after that date, section 197.3635, Florida Statutes, is created to read:

197.3635 Combined notice of ad valorem taxes and non-ad valorem assessments; requirements.—A form for the combined notice of ad valorem taxes and non-ad valorem assessments shall be produced and paid for by the tax collector. The form shall meet the requirements of this section and department rules and shall be subject to approval by the department. By rule the department shall provide a format for the form of such combined notice. The form shall meet the following requirements:

(1) It shall contain the title "Notice of Ad Valorem Taxes and Non-ad Valorem Assessments." It shall also contain a receipt part that can be returned along with the payment to the tax collector.

(2) It shall provide a clear partition between ad valorem taxes and non-ad valorem assessments. Such partition shall be a bold horizontal line approximately 1/8 inch thick.

(3) Within the ad valorem part, it shall contain the heading "Ad Valorem Taxes." Within the non-ad valorem assessment part, it shall contain the heading "Non-ad Valorem Assessments."

(4) It shall contain the county name, the assessment year, the mailing address of the tax collector, the mailing address of one property owner, the legal description of the property to at least 25 characters, and the unique parcel or tax identification number of the property.

(5) It shall provide for the labeled disclosure of the total amount of combined levies and the total discounted amount due each month when paid in advance.

(6) It shall provide a field or portion on the front of the notice for official use for data to reflect codes useful to the tax collector.

(7) The combined notice shall be set in type which is 8 points or larger.

(8) The ad valorem part shall contain the following:

(a) A schedule of the assessed value, exempted value, and taxable value of the property.

(b) Subheadings for columns listing taxing authorities, corresponding millage rates expressed in dollars and cents per $1,000 of taxable value, and the associated tax.

(c) Taxing authorities listed in the same sequence and manner as listed on the notice required by s. 200.069(4)(a), with the exception that independent special districts, municipal service taxing districts, and voted debt service millages for each taxing authority shall be listed separately. If a county has too many municipal service taxing units to list separately, it shall combine them to disclose the total number of such units and the amount of taxes levied.

(9) Within the non-ad valorem assessment part, it shall contain the following:

(a) Subheadings for columns listing the levying authorities, corresponding assessment rates expressed in dollars and cents per unit of assessment, and the associated assessment amount.

(b) The purpose of the assessment, if the purpose is not clearly indicated by the name of the levying authority.

(c) A listing of the levying authorities in the same order as in the ad valorem part to the extent practicable. If a county has too many municipal service benefit units to list separately, it shall combine them by function.

(10) It shall provide instructions and useful information to the taxpayer. Such information and instructions shall be nontechnical to minimize confusion. The information and instructions required by this section shall be provided by department rule and shall include:

(a) Procedures to be followed when the property has been sold or conveyed.

(b) Instruction as to mailing the remittance and receipt along with a brief disclosure of the availability of discounts.

(c) Notification about delinquency and interest for delinquent payment.

(d) Notification that failure to pay the amounts due will result in a tax certificate being issued against the property.

(e) A brief statement outlining the responsibility of the tax collector, the property appraiser, and the taxing authorities. This statement shall be accompanied by directions as to which office to contact for particular questions or problems.

(Renumber Subsequent Sections.)

Amendment 2—On page 8, strike all of lines 1 and 2 and insert:

Section 15. Effective upon becoming a law and operating retroactively to January 1, 1988, subsections (10), (11), and (12) are added to section 192.037, Florida Statutes, to read:

192.037 Fee time-share real property; taxes and assessments.—

(10) In making his assessment of time-share real property, the property appraiser shall look first to the resale market.

(11) If there is an inadequate number of resales to provide a basis for arriving at value conclusions, then the property appraiser shall deduct from the original purchase price "usual and reasonable fees and costs of the sale". For purposes of this subsection, "usual and reasonable fees and costs of the sale" for time-share real property shall include all marketing costs, atypical financing costs, and those costs attributable to the right of a time-share unit owner or user to participate in an exchange network of resorts. For time-share real property, such "usual and reasonable fees and costs of the sale" shall be presumed to be fifty percent of the original purchase price; provided, however, such presumption shall be rebuttable.

(12) Subsections (10) and (11) apply to fee and non-fee time-share real property.

Section 16. Except as otherwise provided in this act, this act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

Amendment 3—In title, on page 1, strike all of lines 4-6 and insert: assessing cooperative parcels; specifying information which must be contained in tax notices; amending s. 197.102, F.S.; redefining the terms "tax certificate" and "tax notice" and defining the terms "ad valorem tax roll" and "non-ad valorem assessment roll"; amending s. 197.322, F.S.; providing for notice of ad valorem taxes and non-ad valorem assessments; amending s. 197.363, F.S.; revising provisions relating to the method of collection of special assessments and service charges; restricting the application of such provisions; creating s. 197.3631, F.S.; providing general requirements relating to non-ad valorem assessments; creating s. 197.3632, F.S.; providing a uniform method for the levy, collection, and enforcement of non-ad valorem assessments; creating s. 197.3635, F.S.; providing for the form of combined notice of ad valorem taxes and non-ad valorem assessments; amending s.

Amendment 4—In title, on page 1, line 19, after the semicolon (;) insert: amending s. 192.037, F.S.; providing additional procedures for assessing time-share property; providing additional "usual and reasonable fees and costs of the sale" for time-share property;

On motion by Senator Deratany, by two-thirds vote CS for SB 1171 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Beard	Crenshaw	Girardeau	Hair
Brown	Deratany	Gordon	Hollingsworth
Childers, D.	Dudley	Grant	Jenne
Childers, W. D.	Frank	Grizzle	Johnson
Kirkpatrick	Margolis	Plummer	Thomas
Kiser	Meek	Ros-Lehtinen	Thurman
Langley	Myers	Scott	Weinstein
Lehtinen	Peterson	Stuart	Woodson

Nays—None

Consideration of **SB 1203** was deferred.

SB 704—A bill to be entitled An act relating to the Florida Patient's Compensation Fund; amending s. 768.54, F.S.; providing that the fund shall be considered a political subdivision for purposes of intangible personal property tax exemption; providing an effective date.

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote SB 704 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Gordon	Langley	Ros-Lehtinen
Brown	Grant	Lehtinen	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Margolis	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Deratany	Jenne	Meek	Weinstock
Dudley	Johnson	Myers	Woodson
Frank	Kirkpatrick	Peterson	
Girardeau	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Weinstein

CS for SB 931—A bill to be entitled An act relating to citrus; amending section 2 of chapter 87-182, Laws of Florida; delaying for 1 year the repeal of s. 581.193, F.S., which imposes an excise tax on citrus nursery stock; amending section 2 of chapter 86-128, Laws of Florida, as amended; extending for 1 year an excise tax on citrus which is deposited in the Florida Citrus Canker Trust Fund; amending s. 601.15, F.S.; revising citrus excise taxes; repealing s. 601.151, F.S., which provides an additional tax on fresh fruit; providing effective dates.

—was read the second time by title. On motion by Senator Peterson, by two-thirds vote CS for SB 931 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grant	Lehtinen	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Margolis	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Langley	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Weinstein

SB 1075—A bill to be entitled An act relating to aquaculture; amending s. 253.69, F.S., relating to the survey of submerged land leased for aquacultural activities; amending s. 253.71, F.S., relating to the performance requirements for such lease; providing a prohibition for certain shellfish leases; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendments which were moved by Senator Kirkpatrick and adopted:

Amendment 1—On page 2, strike all of lines 27-31 and insert:

Section 3. Effective July 1, 1988 persons wishing to lease state owned water bottoms for the purpose of growing oysters and clams shall no longer be required to apply under the provisions of s. 370.16; such leases shall be issued pursuant to the provisions of ss. 253.67-253.75.

Section 4. This act shall take effect July 1, 1988.

Amendment 2—In title, on page 1, line 7, strike "a prohibition for" and insert: for the issuance of

On motion by Senator Kirkpatrick, by two-thirds vote SB 1075 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Beard	Gordon	Kiser	Scott
Brown	Grant	Langley	Stuart
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Ros-Lehtinen	

Nays—None

On motion by Senator Thurman, by two-thirds vote HB 26 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Thurman—

HB 26—A bill to be entitled An act relating to liens; reenacting s. 713.50, F.S.; providing liens upon personal property; creating s. 713.655, F.S.; providing liens to veterinarians for unpaid fees for professional services rendered; providing an effective date.

—a companion measure, was substituted for CS for SB 747 and read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 26 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Girardeau	Kirkpatrick	Ros-Lehtinen
Brown	Gordon	Langley	Scott
Childers, D.	Grant	Lehtinen	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	
Frank	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Kiser, Peterson, Stuart

Consideration of **CS for CS for SB 1221** was deferred.

CS for SB 11—A bill to be entitled An act relating to the Florida Cemetery Act; amending s. 497.009, F.S.; revising language with respect to annual renewal license applications; amending s. 497.027, F.S.; reducing the amount of acreage used to compute an exemption to the minimum acreage requirement; amending s. 497.041, F.S.; revising language with respect to a fee a cemetery company may charge for the inspection and marking of monuments not installed by the cemetery company or its agents; amending s. 497.044, F.S.; providing a maximum amount for public liability insurance required by persons installing, placing, or setting monuments upon cemetery company land; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1—On page 3, between lines 24 and 25, insert:

Section 5. Findings and intent.—Subject to certain interests of society, the Legislature finds that every competent adult has the right to control the decisions relating to his own cemetery arrangements. Accordingly, unless otherwise provided in chapter 497, Florida Statutes, it is the Legislature's express intent that nothing contained in chapter 497, Florida Statutes, should be construed or interpreted in any manner so as to subject preneed contract purchasers to federal income taxation under the grantor trust rules contained in s. 671 et. seq. of the Internal Revenue Code of 1986, as amended. To do otherwise could subject preneed contract purchasers, without their knowledge, to taxation on phantom income, thereby resulting in the undesirable results of either the cancellation of, or lack of use of, preneed cemetery arrangements.

Section 6. Section 497.026, Florida Statutes, is created to read:

497.026 Cancellation of contracts; refunds.—A contract entered into between a cemetery company and a purchaser under which the cemetery has not delivered to the purchaser services or merchandise, or any divisible portion of such a contract under which the cemetery has not delivered services or merchandise, shall be subject to cancellation and refund within 1 year after the date of execution only, upon a showing by the purchaser of any intentional violation of any provision of this chapter which relates to the negotiation, sale, or performance of the contract. If the cemetery company wishes to enforce such contract after receipt of such showing, it may request the department to determine the sufficiency of the showing. Upon cancellation of the contract by the purchaser, the purchaser may demand from a person authorized under this chapter a refund of the entire amount actually paid on such contract. Such refund must be made within 30 days after the authorized person receives the request for refund. The company may not cancel a contract unless the purchaser is in default. In addition, such an executory contract for a casket, vault, or other similar merchandise, or a portion of such an executory contract that includes such a purchase, entered into between a cemetery company and a purchaser, shall be subject to cancellation and a 70 percent refund, within 1 year after the date of execution of the contract only, upon request by the purchaser or the purchaser's agent. Such refund shall be made within 30 days after the cemetery company receives the request for refund.

Section 7. Section 497.048, Florida Statutes, is amended to read:

497.048 Receipts from sale of personal property or services; deposits into merchandise trust fund; refunds.—

(1) This section applies to all cemetery companies licensed pursuant to this chapter that offer for sale or sell personal property or services which may be used in a cemetery in connection with the burial of human remains or the commemoration of the memory of a deceased human being and also to any person in direct written contractual relationship with licensed cemetery companies.

(2) Except as *otherwise* ~~hereinafter~~ provided *in this chapter*, no cemetery company shall directly or indirectly enter into a contract for the sale of personal property or services, excluding burial or interment rights, which may be used in a cemetery in connection with disposing of human remains, or commemorating the memory of a deceased human being, if delivery of the personal property or performance of the service is to be made more than 120 days after receipt of final payment under the contract of sale, except as provided in paragraph (3)(a); however, the entire amount required to be deposited into the fund shall be paid within 7 years from the date of any contract requiring such payment, regardless of whether all amounts have been received by the cemetery company. This shall include, but not be limited to, the sale for future delivery of burial vaults, grave liners, urns, memorials, vases, foundations, memorial bases, and similar merchandise and related services commonly sold or used in cemeteries and interment fees but excluding burial or interment rights.

(3)(a) Any cemetery company entering into a contract for the sale of such personal property or services shall deposit into a merchandise trust fund 110 percent of the wholesale purchase price of the personal property or services sold for future use or delivery; the wholesale purchase price shall be determined at the time of initial deposit to the merchandise trust fund based upon cost determined by the department in accordance with subsection (4). The merchandise trust fund shall be administered by a corporate trustee in accordance with a written trust instrument. However, no nonprofit cemetery corporation which has been incorporated and engaged in the cemetery business prior to and continuously since 1915 and which has current trust assets exceeding $2 million shall be required to designate a corporate trustee.

(b) The deposit shall be made within 30 days after the end of the calendar month in which any payment is received by the cemetery company. The percentage of the 110 percent of the wholesale cost placed in trust must be identical to the percentage which the payment received bears to the total cost of the items and services.

(c) Any cemetery company which promises the future delivery of such personal property or services at no cost shall, within 30 days after the end of the calendar month in which the promise was made, deposit into a merchandise trust fund 110 percent of the wholesale purchase price.

(d) *The cemetery company shall maintain records to demonstrate compliance with this section.* ~~Each initial deposit shall be identified by the cemetery company by furnishing the trustee and the purchaser with the name of the purchaser, the amount of the retail sales price, and the amount of money required to be deposited, together with a statement of or a copy of the contract for the personal property and services to be furnished by the cemetery company. If the cemetery company is acting as trustee as provided for in paragraph (e), it shall maintain a schedule of all deposits made, by contract number, name of purchaser, and amount of deposit. The trustee may commingle the deposits in the merchandise trust fund for purposes of the management thereof and the investment of funds therein.~~

(e) The merchandise trust fund shall be operated in conformity with s. 497.021 with respect to the nature and character of the trustee. Alternatively, the merchandise trust fund shall be deposited in a savings account in the name of the cemetery company, as trustee, with a bank, trust company, or savings and loan association incorporated under and authorized by the laws of this state or of the United States, provided that such accounts shall be fully insured by the United States or an agency or instrumentality thereof. The provisions of chapter 660 shall not apply to such savings account. When the amount of the trust fund exceeds the amount that is insured by an agency of the Federal Government, the cemetery company shall establish and transfer the trust fund to a trust company operating pursuant to chapter 660 or with a state or national bank holding trust powers. If a cemetery company elects to maintain a savings account in its own name, as trustee, as provided herein, it shall promptly notify the department in writing of that fact and furnish any relevant information that the department may require. In addition to such notice, the cemetery company shall also execute and deliver to the bank, trust company, or savings and loan association in which the trust account is maintained a power of attorney and any other indemnification agreement that may be required by the bank, trust company, or savings and loan association ~~for the purpose of authorizing payments or withdrawals from the trust account as a result of nondelivery or nonperformance to a purchaser or his heirs, assigns, or duly authorized representative as provided in paragraph (6)(b)~~. The cemetery company shall also furnish satisfactory evidence to the department that it has executed and delivered such instruments to the bank, trust company, or savings and loan association.

(4) *The wholesale purchase price shall be based on the invoices of the cemetery. If an invoice is not available, estimates and other data may be used to determine the wholesale purchase price. The cemetery company shall maintain invoices and other documentation used in determining the wholesale purchase price of preneed merchandise or services.* ~~The department shall publish annually a list of the cost of the personal property or services affected hereby, which shall be computed by the department based upon its independent investigation and which shall include the actual wholesale purchase price plus 10 percent. All deposits required hereunder shall be determined upon this annual computation by the department.~~

(5) In order to ensure that the proper deposits are made to the trust fund, the department shall examine the status of the trust fund of each company on a semiannual basis for the first 2 years of the trust fund's existence.

(6)(a) The funds shall be held in trust, both as to principal and income earned thereon, and shall remain intact, except that the cost of the operation of the trust or the trust account authorized by paragraph (3)(e) may be deducted from the income earned thereon, until delivery of the merchandise is made or the services are performed by the cemetery company. Upon delivery of the merchandise or performance of the services, the cemetery company shall certify same to the trustee, or to the department if the funds are deposited in a trust account with the cemetery company as trustee. Upon certification, the amount of money on deposit to the credit of that particular contract, including principal and income earned thereon, shall be forthwith paid to the cemetery company, or the cemetery company may withdraw the amount from the trust account maintained by it as trustee. The trustee may rely upon all such certifications herein required to be made and shall not be liable to anyone for such reliance.

(b) If a cemetery company which has entered into a contract for the sale of personal property or services and which has made the deposit to the merchandise trust fund or trust account cannot or does not provide the personal property or perform the services called for by the contract after written request to do so, the purchaser or his heirs or assigns or duly authorized representative shall have the right to provide such personal property or services and, having provided the property or services, shall be entitled to receive the deposit to the credit of that particular contract. ~~Written instruction to the trustee, or to the bank, trust company, or savings and loan association in which the account is maintained, by the cemetery company directing the trustee or the bank, trust company, or savings and loan association to refund the amount of money on deposit, or an affidavit by either the purchaser or one of his heirs or assigns or his duly authorized representative, stating that he has fully performed the contract and that the personal property or services were not provided because the cemetery company cannot perform, or refuses to perform, as provided in the contract, shall be sufficient authority for the trustee, bank, trust company, or savings and loan association to refund the deposit moneys to the person submitting the affidavit.~~ The trustee, bank, trust company, or savings and loan association shall not be held responsible for any refunds made on account of the cemetery company's written direction or an affidavit submitted in accordance with this section. However, nothing herein contained shall relieve the cemetery company from any liability for nonperformance of the contract terms.

(c) If the cemetery company cannot deliver the personal property sold because of a national emergency, the provisions of paragraph (b) shall not apply.

~~(7) A contract entered into between a cemetery company and a purchaser shall be subject to cancellation and refund, within 1 year from the date of execution only, upon a showing by the purchaser of any intentional violation of any provision of this act which relates to the negotiation, sale, or performance of the contract. If the cemetery company wishes to enforce such contract after receipt of such showing, it may request the department to determine the sufficiency of the showing. Upon cancellation, the purchaser may demand from a person authorized under this chapter a refund of the entire amount actually paid on such contract. Such refund shall be made within 30 days after receipt by the authorized person of the request for refund. The company may not cancel a contract unless the purchaser is in default. In addition, a contract for a casket, vault, or other similar merchandise, or the portion of a contract that includes such a purchase subject to the trust requirements of this section, entered into between a cemetery company and a purchaser, shall be subject to cancellation and a 70 percent refund, within 1 year from the date of execution of the contract only, upon request by the purchaser or the purchaser's agent. Such refund shall be made within 30 days after receipt by the cemetery company of the request for refund.~~

(7)~~(8)~~ The trustee shall annually, within 105 days after the end of its fiscal year, file a financial report of the merchandise trust fund with the department, setting forth the principal thereof, the investments and payments made, and the income earned and disbursed. The department may require the trustee to make such additional financial reports as it may deem necessary. If the account is held by the cemetery company as trustee, the department may require the bank, trust company, or savings and loan association in which the account is maintained to furnish written verification of the financial report required to be submitted by the cemetery company.

(8)~~(9)~~ The department shall from time to time, as it deems necessary, examine the business affairs of each cemetery company which writes contracts for the sale of property or services. The examination shall be made at the expense of the licensee. The written report of the examination shall be filed in the office of the department. A licensee which is being examined shall produce all records of the company, including those records of the company held by the bank, trust company, or savings and loan association in which the merchandise trust fund is maintained.

(9)~~(10)~~ Any provision of any contract for the sale of the personal property or the performance of services herein contemplated under which the purchaser or beneficiary waives any of the provisions of this section shall be void.

(10)~~(11)~~ This section does not apply to persons holding a license or certificate under chapter 470 or chapter 639 when performing services or selling items authorized by such chapter.

(11)~~(12)~~ Each contract for the sale of personal property or the performance of services must state the type, size, and design of personal property and the description of service to be delivered or performed.

(12)~~(13)~~ If an installment contract for the purchase of personal property or services is sold, transferred, or discounted to a third party, the entire amount due the merchandise trust fund shall be payable no later than 30 days following the close of the calendar month in which the contract was sold, transferred, or discounted.

Section 8. Section 497.0484, Florida Statutes, is created to read:

497.0484 Alternatives to deposits under s. 497.048.—

(1)(a) As an alternative to the requirements of s. 497.048 that relate to trust funds, a cemetery may purchase a surety bond in an amount not less than the aggregate value of outstanding liabilities on undelivered preneed contracts for merchandise and services. For the purpose of this section, the term "outstanding liabilities" means the gross replacement or wholesale value of the preneed merchandise and services. The bond shall be made payable to the State of Florida for the benefit of the department and all purchasers of preneed cemetery merchandise or services. The bond must be approved by the department.

(b) The amount of the bond shall be based on a report documenting the outstanding liabilities of the cemetery company and shall be prepared by the cemetery company using generally accepted accounting principles and signed by the cemetery company's chief financial officer.

(c) The report shall be compiled as of the end of the cemetery company's fiscal year and updated annually. The amount of the bond shall be increased or decreased as necessary to correlate with changes in the outstanding liabilities.

(d) If a cemetery company fails to maintain a bond pursuant to this section, the cemetery company shall cease the sale of preneed merchandise and services.

(2) Upon prior approval by the department, the cemetery company may file a letter of credit with the department in lieu of a surety bond. Such letter of credit must be in a form, and is subject to terms and conditions, prescribed by the department. It may be revoked only with the express approval of the department.

(3)(a) A buyer of preneed merchandise or services who does not receive such services or merchandise due to the economic failure, closing, or bankruptcy of the cemetery company must file a claim with the surety as a prerequisite to payment of the claim and, if the claim is not paid, may bring an action based on the bond and recover against the surety. In the case of a letter of credit or cash deposit that has been filed with the department, the buyer may file a claim with the department.

(b) In order to qualify for recovery on any claim under paragraph (a), the buyer must file the claim no later than 1 year after the date on which the cemetery closed or bankruptcy was filed.

(c) The department may file a claim with the surety on behalf of any buyer under paragraph (a). The surety shall pay the amount of the claims to the department for distribution to claimants entitled to restitution and shall be relieved of liability to that extent.

(d) The liability of the surety under any bond may not exceed the aggregate amount of the bond, regardless of the number or amount of claims filed.

(e) If the total value of the claims filed exceeds the amount of the bond, the surety shall pay the amount of the bond to the department for distribution to claimants entitled to restitution and shall be relieved of all liability under the bond.

(4) The cemetery company shall maintain accurate records of the bond and premium payments on it, which records shall be open to inspection by the department.

(5) For purposes of this section, a preneed contract is a contract calling for the delivery of merchandise and services in the future and entered into before the death of the prospective recipient.

(6) This act does not relieve the cemetery company or other entity from liability for nonperformance of contractual terms unless the cemetery company cannot deliver the merchandise or services because of a national emergency, strike, or act of God.

(7) The department may require the holder of any assets of the cemetery company to furnish written verification of the financial report required to be submitted by the cemetery company or other entity.

(8) Any preneed contract which promises future delivery of merchandise at no cost constitutes a paid-up contract. Merchandise which has been delivered is not covered by the required performance bond or letter of credit even though the contract is not completely paid. The cemetery company may not cancel a contract unless the purchaser is in default according to the terms of the contract. A contract sold, discounted, and transferred to a third party constitutes a paid-up contract for the purposes of the performance bond or letter of credit.

(9) Each contract must state the type, size, and design of merchandise and the description of service to be delivered or performed.

(10) This section does not apply to contracts entered into by a person or legal entity holding a license or certificate under chapter 470 or chapter 649 for services or items authorized by those chapters.

(11) A purchaser and a cemetery company who are parties to a preneed contract executed prior to the effective date of this section may enter into an amended preneed contract which is made subject to this section.

(12) The department may adopt forms and rules necessary to implement this section, including, but not limited to, rules which assure that the surety bond and line of credit provide liability coverage for preneed merchandise and services.

Section 9. Section 497.049, Florida Statutes, is created to read:

497.049 Existing merchandise trust funds; proof of compliance with law.—The cemetery company shall present to the department prior to the implementation of the alternatives provided in s. 497.0484 documentation which demonstrates that the existing merchandise trust fund complies with the law and that the elected alternative plan conforms to the requirements of this chapter.

Section 10. Section 5 of this act and sections 497.026, 497.0484, and 497.049, Florida Statutes, are repealed on October 1, 1990, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statutes.

(Renumber subsequent sections.)

Senators Grant and Girardeau offered the following amendment which was moved by Senator Grant and adopted:

Amendment 2—In title, on page 1, line 16, after the semicolon (;) insert: providing legislative findings; creating s. 497.026, F.S.; providing for contract cancellation and refunds; amending s. 497.048, F.S.; revising requirements with respect to receipts from the sale of personal property or services and deposits into the merchandise trust fund; revising the method of computing the cost of certain property or services; creating s. 497.0484, F.S.; providing for surety bonds and letters of credit as alternatives to trust fund deposits; creating s. 497.049, F.S.; providing for proof of compliance for existing merchandise trust funds; providing for future review and repeal;

On motion by Senator Girardeau, further consideration of **CS for SB 11** as amended was deferred.

On motion by Senator Kiser, by two-thirds vote CS for HB 72 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Kiser—

CS for HB 72—A bill to be entitled An act relating to construction contracting; amending s. 489.111, F.S., requiring a report on the construction contracting certification examinations; providing for the review of examinations and examination items by a sensitivity review committee; prohibiting a fee for certain persons; amending s. 489.129, F.S.; adding disciplinary penalties; providing an effective date.

—a companion measure, was substituted for CS for SB 86 and read the second time by title. On motion by Senator Kiser, by two-thirds vote CS for HB 72 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Dudley	Hair	Kirkpatrick
Brown	Frank	Hollingsworth	Kiser
Childers, D.	Gordon	Jenne	Langley
Childers, W. D.	Grant	Jennings	Lehtinen
Crenshaw	Grizzle	Johnson	Malchon

Margolis	Peterson	Scott	Thurman
Meek	Plummer	Stuart	Weinstein
Myers	Ros-Lehtinen	Thomas	Woodson

Nays—None

Vote after roll call:

Yea—Weinstock

The Senate resumed consideration of—

SB 778—A bill to be entitled An act relating to education; amending s. 230.2316, F.S., relating to dropout prevention; revising criteria for participation in educational alternatives programs; providing an effective date.

—as amended.

Senator Thurman moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 5, after the semicolon (;) insert: amending s. 229.59, F.S.; extending the subject areas that an educational improvement project may address; removing the limit on the amount that the Commissioner of Education can authorize for an educational improvement project grant; providing for the dissemination of the results of such projects; providing that such projects that are deemed to be exceptional by the Department of Education may be used as models for other such projects; providing for project assessment; repealing s. 244.07, F.S.; abolishing the Florida Education Council;

Senator Gordon moved the following amendment which was adopted:

Amendment 7—In title, on page 1, line 2, after the semicolon (;) insert: creating the High School Community Service Act; providing for pilot projects; providing a procedure for developing and submitting project proposals; describing project requirements; providing for selection, funding, and reporting;

On motion by Senator Thurman, by two-thirds vote SB 778 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Lehtinen	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	Woodson

Nays—None

The Senate resumed consderation of—

CS for SB 11—A bill to be entitled An act relating to the Florida Cemetery Act; amending s. 497.009, F.S.; revising language with respect to annual renewal license applications; amending s. 497.027, F.S.; reducing the amount of acreage used to compute an exemption to the minimum acreage requirement; amending s. 497.041, F.S.; revising language with respect to a fee a cemetery company may charge for the inspection and marking of monuments not installed by the cemetery company or its agents; amending s. 497.044, F.S.; providing a maximum amount for public liability insurance required by persons installing, placing, or setting monuments upon cemetery company land; providing an effective date.

—as amended.

On motion by Senator Girardeau, by two-thirds vote CS for SB 11 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

HB 174—A bill to be entitled An act relating to maintenance and transfer of pupil records; amending s. 232.23, F.S., which provides an exemption from public records requirements for pupil records; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 174 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Grant	Langley	Ros-Lehtinen
Brown	Grizzle	Lehtinen	Scott
Childers, D.	Hair	Malchon	Stuart
Childers, W. D.	Hollingsworth	Margolis	Thomas
Crenshaw	Jenne	McPherson	Thurman
Deratany	Jennings	Meek	Weinstein
Dudley	Johnson	Myers	Weinstock
Frank	Kirkpatrick	Peterson	Woodson
Gordon	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau

HB 177—A bill to be entitled An act relating to reports to Department of Health and Rehabilitative Services concerning exceptional students; amending s. 232.145, F.S., which provides an exemption from public records requirements for exceptional student records and reports; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 177 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Lehtinen	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hollingsworth	Margolis	Thomas
Childers, W. D.	Jenne	McPherson	Thurman
Crenshaw	Jennings	Meek	Weinstein
Dudley	Johnson	Myers	Weinstock
Frank	Kirkpatrick	Peterson	Woodson
Girardeau	Kiser	Plummer	
Gordon	Langley	Ros-Lehtinen	

Nays—None

HB 178—A bill to be entitled An act relating to dropout prevention; amending s. 230.2316, F.S., which provides an exemption from public records requirements for the exchange of information contained in student records and juvenile justice records for admission to and administration of dropout prevention programs; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 178 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Lehtinen	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	Woodson

Nays—None

HB 179—A bill to be entitled An act relating to the Department of Education industry services training program; amending s. 230.66, F.S., which provides an exemption from public records requirements for certain materials generated during the course of the development or implementation of the training program; saving such exemption from repeal; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 179 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Lehtinen	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	Woodson

Nays—None

Vote after roll call:

Yea—Hill

HB 180—A bill to be entitled An act relating to divisions of sponsored research at state universities; amending s. 240.241, F.S., which provides an exemption from public records requirements for certain materials generated during the course of research conducted within the state universities; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title.

Senator Ros-Lehtinen moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 5 and 6, insert:

Section 2. Section 222.22, Florida Statutes, is created to read:

222.22 Exemption of moneys in the Prepaid Postsecondary Education Expense Trust Fund from legal process.—Moneys paid into or out of the Prepaid Postsecondary Education Expense Trust Fund by or on behalf of a purchaser or qualified beneficiary pursuant to an advance payment contract made under s. 240.551, which contract has not been terminated, are not liable to attachment, garnishment, or legal process in the state in favor of any creditor of the purchaser or beneficiary of such advance payment contract.

Section 3. Present subsections (11) and (12), of section 240.551, Florida Statutes, are renumbered as subsections (12) and (13), respectively; present subsection (13) of said section is renumbered as subsection (14) and amended; and subsections (4) and (5) and paragraph (d) of subsection (6) of said section are amended; and new subsections (11) and (15) are added to said section to read:

240.551 Florida Prepaid Postsecondary Education Expense Program.—

(4) There is created *within the State Treasury* the Prepaid Postsecondary Education Expense Trust Fund. The fund shall consist of state appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with advance payment contracts. All funds deposited into the trust fund may be invested pursuant to s. 215.47; however, such investment shall not be mandatory. *Dividends,* interest, *and gains* ~~income~~ accruing to the trust fund shall increase the total funds available for the program. Any balance contained within the fund at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of the program. In the event that *dividends,* interest, *and gains* ~~income~~ exceeds the amount necessary for program administration and disbursements, the board may designate an additional percentage of the fund to serve as a contingency fund. Moneys contained within the fund shall be exempt from the investment requirements of s. 18.10.

(5) The Florida Prepaid Postsecondary Education Expense Program shall be administered by the Prepaid Postsecondary Education Expense Board *as an agency of the state.* The Prepaid Postsecondary Education Expense Board is hereby created as a body corporate with all the powers of a body corporate for the purposes delineated in this section. *For the purposes of s. 6 of art. IV of the State Constitution,* the board shall be assigned to and administratively housed within the Division of Treasury of the Department of Insurance, but it shall independently exercise the powers and duties specified in this section. The board shall consist of seven members to be composed of the Insurance Commissioner and Treasurer, Comptroller, Chancellor of the Board of Regents, Executive Director of the State Board of Community Colleges, and three members appointed by the Governor and subject to confirmation by the Senate. Each member appointed by the Governor shall possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Each member of the board not appointed by the Governor may name a designee to serve the board on behalf of the member; however, any designee so named shall meet the qualifications required of gubernatorial appointees to the board. Members appointed by the Governor shall serve terms of 3 years, except that in making the initial appointments, the Governor shall appoint one member to serve for 1 year, one member to serve for 2 years, and one member to serve for 3 years. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term. Any member shall be eligible for reappointment and shall serve until a successor qualifies. Members of the board shall serve without compensation, but shall be reimbursed for per diem and travel in accordance with s. 112.061. Each member of the board shall file a full and public disclosure of his financial interests pursuant to s. 8, Art. II of the State Constitution and corresponding statute.

(a) The Governor shall appoint a member of the board to serve as the initial chairman of the board. Thereafter, the board shall elect a chairman annually. The board shall annually elect a board member to serve as vice chairman and shall designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a record of the proceedings of the board and shall be the custodian of all printed material filed with or by the board and of its official seal. Notwithstanding the existence of vacancies on the board, a majority of the members shall constitute a quorum. The board shall take no official action in the absence of a quorum. The board shall meet, at a minimum, on a quarterly basis at the call of the chairman.

(b) The board shall appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned to him by the board.

(c) The board shall have the powers necessary or proper to carry out the provisions of this section, including, but not limited to, the power to:

1. Adopt an official seal and *rules* ~~bylaws~~.

2. Sue and be sued.

3. Make and execute contracts and other necessary instruments.

4. Establish agreements or other transactions with federal, state, and local agencies, including state universities and community colleges.

5. Invest funds not required for immediate disbursement.

6. Appear in its own behalf before boards, commissions, or other governmental agencies.

7. Hold, buy, and sell any instruments, obligations, securities, and property determined appropriate by the board.

8. Require a reasonable length of state residence for qualified beneficiaries.

9. Restrict the number of participants in the community college plan, university plan, and dormitory residence plan, respectively. However, any person denied participation solely on the basis of such restriction shall be granted priority for participation during the succeeding year.

10. Segregate contributions and payments to the fund into various accounts and funds.

11. Contract for necessary goods and services, employ necessary personnel, and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for administrative or technical assistance.

12. Solicit and accept gifts, grants, loans, and other aids from any source or participate in any other way in any government program to carry out the purposes of this section.

13. Require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis.

14. Procure insurance against any loss in connection with the property, assets, and activities of the fund or the board.

15. Impose reasonable time limits on use of the tuition benefits provided by the program. However, any such limitation shall be specified within the advance payment contract.

16. Delineate the terms and conditions under which payments may be withdrawn from the fund and impose reasonable fees and charges for such withdrawal. Such terms and conditions shall be specified within the advance payment contract.

17. Provide for the receipt of contributions in lump sums or installment payments.

18. Establish other policies, procedures, and criteria to implement and administer the provisions of this section.

(d) The board shall administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness.

(e) The board shall establish a comprehensive investment plan for the purposes of this section. The board may place assets of the fund in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws, regulations, and rules by persons who are duly authorized by applicable federal and state authorities. Within the comprehensive investment plan, the board may authorize investment vehicles, or products incident thereto, as may be available or offered by qualified companies or persons.

(f) The board may delegate responsibility for administration of the comprehensive investment plan required in paragraph (e) to a person the board determines to be qualified. Such person shall be compensated by the board. Directly or through such person, the board may contract with a private corporation or institution to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.

(g) The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before November 15 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The accounts of the fund shall be subject to annual audits by the Auditor General or his designee.

(h) The board shall solicit answers to applicable ruling requests from the Internal Revenue Service regarding the tax status of fees paid pursuant to an advance payment contract to the purchaser or qualified beneficiary and from the Securities and Exchange Commission regarding the application of federal securities laws to the trust. The board shall make the status of such requests known before entering into an advance payment contract.

(i) The board shall solicit proposals for the marketing of the Florida Prepaid Postsecondary Education Expense Program pursuant to s. 287.057. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall be solely responsible for the marketing of the program. Any materials produced for the purpose of marketing the program shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent.

(6)

(d) An advance payment contract may provide that contracts which have not been terminated or the benefits exercised within a specified period of time shall be considered terminated. Time expended by a qualified beneficiary as an active duty member of any of the armed services of the United States shall be added to the period of time specified pursuant to this paragraph. No purchaser or qualified beneficiary whose advance payment contract is terminated pursuant to this paragraph shall be entitled to a refund. The board shall retain any moneys paid by the purchaser for an advance payment contract *that has been* terminated in accordance with this paragraph. *Such moneys retained by the board are exempt from chapter 717; and such retained moneys must be used by the board to further the purposes of this section.*

(11) Moneys paid into or out of the fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract made under this section, which contract has not been terminated, are exempt, as provided by s. 222.22, from all claims of creditors of the purchaser or the beneficiary.

(14)~~(13)~~ In the event that the state determines the program to be financially infeasible, the state may discontinue the provision of the program. Any qualified beneficiary who has been accepted by and is enrolled or is within one year of enrollment in an eligible independent college or university or state postsecondary institution shall be entitled to exercise the complete benefits for which he has contracted. All other contract holders shall receive a refund, pursuant to subparagraph (6)(a)7, of the amount paid in and additional amount in the nature of interest at a ~~however, such refunds shall include an interest~~ rate that corresponds, at a minimum, to the prevailing interest rates for savings accounts provided by banks and savings and loan associations.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 9, after the second semicolon (;) insert: creating s. 222.22, F.S.; exempting moneys paid into or out of the Prepaid Postsecondary Education Expense Trust Fund under certain conditions from the claims of all creditors of the purchaser or beneficiary of an advance payment contract; amending s. 240.551, F.S.; providing that the trust fund is created within the State Treasury; providing that the program is an agency of the state; providing that moneys paid into the Florida Prepaid Postsecondary Education Expense Program by a purchaser of an advanced payment contract are exempt from ch. 717, F.S., the Florida Disposition of Unclaimed Property Act, when such contract is terminated because benefits under the contract have not been exercised; providing an effective date.

On motion by Senator D. Childers, by two-thirds vote HB 180 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Crenshaw	Girardeau	Hollingsworth
Brown	Deratany	Grant	Jenne
Childers, D.	Dudley	Grizzle	Jennings
Childers, W. D.	Frank	Hair	Johnson

Kirkpatrick	Margolis	Plummer	Thurman
Kiser	McPherson	Ros-Lehtinen	Weinstein
Langley	Meek	Scott	Weinstock
Malchon	Myers	Stuart	Woodson

Nays—None

HB 181—A bill to be entitled An act relating to technology transfer centers at community colleges; amending s. 240.334, F.S., which provides an exemption from public records requirements for certain materials generated during the course of activities conducted within the community colleges; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 181 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crenshaw	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	

Nays—None

On motions by Senator Margolis, by two-thirds vote HB 274 was withdrawn from the Committees on Judiciary-Civil; and Finance, Taxation and Claims.

On motion by Senator Margolis—

HB 274—A bill to be entitled An act relating to bond validation; amending s. 215.82, F.S.; providing additional procedures for actions to validate certain state bonds; providing an effective date.

—a companion measure, was substituted for CS for SB 274 and read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 2, between lines 6 and 7, insert:

Section 2. Subsection (4) is added to section 218.37, Florida Statutes, *to read:*

218.37 Powers and duties of Division of Bond Finance; advisory council.—

(4) The Division of Bond Finance of the Department of General Services shall conduct a study of professional fees paid to fiscal advisors, bond counsel and others, and shall adopt a recommended fee schedule which is commensurate with fees typically paid in states similar to Florida in size and character. Such schedule shall be adopted by the division as the recommended fee schedule for all state and state agency financings.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 4, after the semicolon (;) insert: amending s. 218.37, F.S.; requiring the Division of Bond Finance of the Department of General Services to adopt recommended fee schedules for certain professional fees;

On motion by Senator Margolis, by two-thirds vote HB 274 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Crenshaw	Frank	Grant
Brown	Deratany	Girardeau	Grizzle
Childers, W. D.	Dudley	Gordon	Hair
Hill	Langley	Myers	Thurman
Hollingsworth	Lehtinen	Peterson	Weinstein
Jenne	Malchon	Ros-Lehtinen	Weinstock
Jennings	Margolis	Scott	Woodson
Johnson	McPherson	Stuart	
Kirkpatrick	Meek	Thomas	

Nays—None

CS for CS for SB 446—A bill to be entitled An act relating to pharmacy; amending s. 465.003, F.S.; defining nuclear pharmacist; creating s. 465.0126, F.S., relating to nuclear pharmacists; providing for application and licensure; providing a fee; requiring certain activities; providing for qualifications; providing for rules; amending s. 465.018, F.S., relating to community pharmacies; requiring certain notification by prescription department managers; amending s. 465.0193, F.S.; deleting language on nuclear pharmacists; amending s. 499.0054, F.S.; providing that certain advertisements are violations; providing an appropriation; amending s. 465.022, F.S.; modifying pharmacy licensure fees; providing an effective date.

—was read the second time by title. On motion by Senator Margolis, by two-thirds vote CS for CS for SB 446 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Gordon	Kirkpatrick	Peterson
Childers, D.	Grant	Langley	Ros-Lehtinen
Childers, W. D.	Grizzle	Lehtinen	Stuart
Crenshaw	Hair	Malchon	Thomas
Deratany	Hill	Margolis	Thurman
Dudley	Hollingsworth	McPherson	Weinstein
Frank	Jenne	Meek	Weinstock
Girardeau	Johnson	Myers	Woodson

Nays—None

On motions by Senator McPherson, by two-thirds vote CS for HB 1125 was withdrawn from the Committees on Economic, Community and Consumer Affairs; Commerce; Finance, Taxation and Claims; and Appropriations.

On motions by Senator McPherson, by two-thirds vote—

CS for HB 1125—A bill to be entitled An act relating to the regulation of yacht brokers and salesmen by the Department of Business Regulation; providing definitions; providing for the administration of brokers' and salesmen's licenses; prescribing qualifications for issuance of a license; prohibiting unlicensed persons from acting as brokers or salesmen; providing exceptions; providing for license fees; providing for the denial, revocation, or suspension of licenses; requiring surety bonds; providing for the handling and disposition of funds received by licensees; providing for the adoption of rules; providing for review and repeal; providing an appropriation; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 557 and by two-thirds vote read the second time by title.

Senator McPherson moved the following amendment which was adopted:

Amendment 1—On page 2, line 4, strike "pleasure or recreational"

On motion by Senator McPherson, by two-thirds vote CS for HB 1125 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Dudley	Hair	Kirkpatrick
Brown	Frank	Hill	Langley
Childers, D.	Girardeau	Hollingsworth	Lehtinen
Childers, W. D.	Gordon	Jenne	Malchon
Crenshaw	Grant	Jennings	Margolis
Deratany	Grizzle	Johnson	McPherson

Meek	Plummer	Stuart	Weinstock
Myers	Ros-Lehtinen	Thomas	Woodson
Peterson	Scott	Thurman	

Nays—None

CS for CS for SB 904—A bill to be entitled An act relating to health care; creating the Health Care Cost Containment Act; creating chapter 407, F.S.; amending and transferring part II of chapter 395, F.S., relating to the Health Care Cost Containment Act of 1979, to chapter 407, F.S.; providing a short title; providing definitions; prescribing the maximum allowable rate of increase in hospital rates; providing legislative intent; establishing administrative authority; revising composition of the Hospital Cost Containment Board; deleting obsolete language; revising board procedures; revising powers and duties of the board; requiring a threshold by which budgets are subject to board review; providing immunity to hospitals for releasing certain data; prescribing law governing hospital budgets and budget amendments; revising the uniform system of financial reporting for hospitals and providing procedures for grouping hospitals; requiring all hospitals exceeding certain thresholds to submit budgets; providing penalties relating to required reports and information; providing for analyses, studies, and reports by the board; requiring accessible data base; abolishing the Office of Technical Assistance; deleting certain technical assistance responsibilities; revising procedures establishing prospective payment arrangements; requiring hospitals not exceeding maximum allowable rate of increase to file budget letters with board instead of detailed budget; establishing detailed budget review threshold; allowing hospitals to accumulate percentage points for use in future; providing rulemaking authority; revising board budget review and approval review processes; requiring hospitals requesting increases above the maximum allowable rate of increase to file budgets; establishing hospital groupings; providing for budget review; providing for budget amendment; establishing criteria for budget review; providing for preliminary findings; providing for objections; providing for hearings; providing for exceptions; providing exemptions for certain hospitals from detailed budget review; providing an effective date for revised budget review and approval procedures; modifying penalty provisions; providing for accumulation of net revenue percentage points to offset penalties; providing for waiver of penalty; specifying duties of Public Counsel; repealing s. 395.52, F.S., relating to information or physician charges; providing for studies and reports by the board; providing an appropriation; providing for a hospital expenditure and revenue study; providing for rules; revising and readopting provisions of part II of chapter 395, F.S., as amended and transferred, notwithstanding repeals scheduled under the Regulatory Sunset Act; providing for future review and repeal of such provisions; creating chapter 389, F.S.; amending and transferring ss. 381.025, 381.703, 400.341, 400.343-400.346, F.S., to chapter 389, F.S.; creating the "Health Planning Act"; providing legislative intent; providing definitions; designating the state health planning agency; authorizing health planning studies, analyses, and reports; providing for biennial health care plans; providing departmental cost containment responsibilities; providing for an annual health care cost containment plan; creating an Office of Technical Assistance within the department; establishing technical assistance responsibilities; establishing a state center for health statistics; providing for a comprehensive health information system; establishing center functions; providing for center technical assistance; providing for center publications, reports, and special studies; providing for data confidentiality; providing a penalty; limiting provider reporting; providing for center budget, fees, and trust fund; providing an appropriation; establishing a Comprehensive Health Information System Advisory Council; providing for appointments; providing for staggering of terms; providing for meetings; providing for uniform system of financial reporting to the department by nursing homes; providing for monitoring of certificate-of-need projects; providing for assessments on certain health care facilities; providing a fine for noncompliance; providing a penalty; providing for a study on health care coverage for the uninsured; providing for interim and final reports; providing an appropriation; amending s. 381.704, F.S.; revising duties and responsibilities of department; creating s. 409.2665, F.S.; providing for a Medicaid selective contracting plan; repealing s. 400.342, F.S., relating to definitions; amending ss. 119.07, 215.22, 381.601, 381.710, 395.101, 400.609, 409.2663, 627.9175, 768.81, F.S.; conforming cross-references; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for CS for SB 904 to conform the bill to CS for HB 1673.

Pending further consideration of CS for CS for SB 904, on motions by Senator Jennings, by two-thirds vote CS for HB 1673 was withdrawn from the Committees on Health and Rehabilitative Services; Commerce; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Jennings—

CS for HB 1673—A bill to be entitled An act relating to health care; creating the "Affordable Health Care Assurance Act of 1988"; amending s. 154.01, F.S.; authorizing counties to relinquish public health facilities and equipment; amending s. 154.011, F.S.; modifying provisions relating to a system of primary care programs; amending s. 154.301, F.S.; renaming "The Florida Health Care Responsibility Act" as "The Florida Health Care Responsibility Act of 1988"; amending s. 154.302, F.S.; revising legislative intent; amending s. 154.304, F.S.; revising definitions; amending s. 154.306, F.S.; specifying financial responsibilities of hospitals and counties for certified residents who are qualified indigent patients; specifying county obligation per calendar year; providing duties of the Health Care Cost Containment Board and the Department of Health and Rehabilitative Services; amending s. 154.308, F.S.; requiring uniform statewide eligibility criteria; requiring that rules be adopted; increasing the time frame for determination of financial eligibility; providing for qualified indigents; authorizing counties to establish less restrictive financial eligibility thresholds; creating s. 154.309, F.S.; providing for certification of county of residence; providing minimum criteria; requiring certain notification to treating hospitals; amending s. 154.31, F.S.; specifying obligation of participating hospitals and regional referral hospitals to admit patients; providing penalties; creating s. 154.3105, F.S.; providing for rules; requiring a work group; providing membership criteria; requiring promulgation of certain rules; amending s. 154.312, F.S.; providing procedure for settlement of disputes; amending s. 154.314, F.S.; revising time frames for payment to hospitals; requiring the Comptroller to provide a quarterly accounting; amending s. 154.316, F.S.; providing conditions for reimbursement for treatment of patients; amending s. 154.331, F.S.; providing for establishment of independent health care special districts, with authority to levy ad valorem taxes; providing for appointment and powers and functions of governing boards; providing procedures and restrictions with respect to millage rates; providing for dissolution of districts; providing for compliance with statutory requirements; amending s. 200.001, F.S.; providing certain authority to independent health care special districts in described home rule charter counties; amending s. 381.702, F.S.; defining "multifacility project"; amending s. 381.703, F.S.; providing sources of funding for the local health councils and Statewide Health Council; amending ss. 381.705, 381.706, 381.709, and 381.710, F.S.; providing additional projects subject to certificate-of-need review; providing review criteria; modifying review process; extending validity period for certain certificates of need; creating chapter 407, F.S., relating to health care cost containment; renumbering ss. 395.5125 and 395.5135, F.S., and amending and renumbering ss. 395.501, 395.502, 395.5025, 395.503, 395.504, 395.5042, 395.505, 395.5051, 395.507, 395.508, 395.5085, 395.509, 395.5092, 395.5094, 395.511, 395.512, 395.513, 395.514, 395.515, and 395.52, F.S., formerly constituting part II of chapter 395, F.S.; changing short title; providing and changing definitions; providing legislative intent with respect to the Health Care Cost Containment Board, formerly the Hospital Cost Containment Board; revising administration, membership, and terms; modifying powers and duties; providing for effect of existing board rules; providing for submission of the board's final legislative budget request; requiring certain hospitals to submit budget information to the board; providing for additional research and analysis relating to health care costs; modifying contents of a report to the Legislature; revising provisions relating to consumer information; eliminating the Consumer Information Network; providing additional responsibilities of the Office of Technical Assistance; providing for quality assurance monitoring; revising provisions relating to review of hospital budgets; requiring hospitals not exceeding maximum allowable rate of increase to file a budget letter, rather than a detailed budget; allowing banking of percentage points for future use; providing review criteria and procedures; providing for budget amendments; providing for objections and hearing; providing exemptions for certain hospitals; providing a penalty; clarifying duty of the Public Counsel with respect to budget proceedings; providing an exemption for information relating to charges by certain physicians; requiring an annual report by health insurers relating to physician charges; requiring publication of specified information; conforming terminology; deleting obsolete language; creating s. 407.025, F.S.; providing immunity from liability for certain report or release of patient data; creating s. 407.10, F.S.; creating the consumer information and advisory council; amending and renumbering ss. 400.341, 400.343, 400.344, 400.345, and 400.346, F.S.; directing the board to make certain nursing

home financial information available; correcting cross-references; conforming language; directing the board to contract with the State University System for certain studies; directing the board to conduct a study of the shortage of registered nurses in Florida; providing contents; providing for a technical assistance panel; requiring reports; providing for an appropriation; directing the board to undertake a study of the impact on and reimbursement for hospitals in providing services to migrant and rural farmworkers; providing for a report; amending s. 409.266, F.S.; authorizing certain use of moneys in the Public Medical Assistance Trust Fund; expanding Medicaid eligibility to certain persons; requiring a report; providing for increases in physician reimbursement; extending the length of stay for certain hospital services; amending s. 409.2661, F.S.; providing for additional primary care health training demonstration projects; increasing funding; amending s. 409.2662, F.S.; specifying additional uses of moneys in the Public Medical Assistance Trust Fund; amending s. 409.2663, F.S.; revising provisions for redistribution of surplus public medical assistance funds; providing for an accounting of funds; providing a methodology to qualify for funds; providing a timetable; amending s. 627.9175, F.S.; deleting requirement for certain reports by health insurers; creating the "Rural Hospital Act of 1988"; providing legislative intent and definitions; amending s. 154.011, F.S.; requiring certain primary care programs to utilize and coordinate with rural hospitals for outpatient services; providing for an appropriation to increase primary care physicians and nurses in rural areas; amending s. 409.266, F.S.; extending Medicaid funding to certain patients in rural areas; amending s. 410.016, F.S.; requiring the Department of Health and Rehabilitative Services to utilize rural hospitals in providing services to the aged; providing for a study of personnel shortages in rural hospitals; requiring a report; providing certain rulemaking authority; postponing Sunset repeal of s. 409.266(7)(k), F.S., relating to the Medicaid medically needy program; saving part II of chapter 395, F.S., from Sunset repeal; providing for future review and repeal; repealing s. 212.055(2), F.S., relating to an indigent care surtax in Hillsborough County; repealing s. 400.342, F.S., which provides definitions relating to nursing homes; providing appropriations; providing a directive to statute editors; providing effective dates.

—a companion measure, was substituted for CS for CS for SB 904 and read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Section 395.501, Florida Statutes, is renumbered as section 407.001, Florida Statutes, and amended to read:

407.001 ~~395.501~~ Short title.—This *chapter* ~~part~~ shall be known and may be cited as the "Health Care Cost Containment Act of *1988* ~~1979~~."

Section 2. Section 395.502, Florida Statutes, is renumbered as section 407.002, Florida Statutes, and amended to read:

407.002 ~~395.502~~ Definitions.—As used in this act, the term:

(1) "Adjusted admission" means the sum of acute admissions and intensive care admissions divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues.

(2) "Audited actual data" or "audited actual experience" means data contained within financial statements examined by an independent, Florida-licensed, certified public accountant in accordance with generally accepted auditing standards.

(3) "Board" means the *Health Care* ~~Hospital~~ Cost Containment Board created by s. *407.01* ~~395.503~~.

(4) "Budget" means the projections by the hospital, for a specified future time period, of expenditures and revenues, with supporting statistical indicators, *or a budget letter certified to the board pursuant to s. 407.50(2)(a).*

(5) "Case mix" means a calculated index for each hospital, based on financial accounting and case-mix data collection as set forth in s. *407.02* ~~395.504~~, reflecting the relative costliness of the mix of cases of that hospital compared to a state or national mix of cases.

(6) "Commissioner" means the Insurance Commissioner.

(7) "Comprehensive rehabilitative hospital" *or "rehabilitative hospital"* means a hospital licensed by the Department of Health and Rehabilitative Services as a specialty hospital, as that term is defined in s. 395.002(14); provided that the hospital provides a program of comprehensive medical rehabilitative services and is designed, equipped, organized, and operated solely to deliver comprehensive medical rehabilitative services, and further provided that all licensed beds in the hospital are classified as "comprehensive rehabilitative beds" pursuant to s. 395.003(4), and are not classified as "general beds."

(8) "Consumer" means any person other than a person who administers health activities, provides health services, has a fiduciary interest in a health facility or other health agency, *or its affiliated entities,* or has a material financial interest in the rendering of health services.

(9) "Cross-subsidization" means that the revenues from one type of hospital service are sufficiently higher than the costs of providing such service as to offset some of the costs of providing another type of service in the hospital. Cross-subsidization results from the lack of a direct relationship between charges and the costs of providing a particular hospital service or type of service.

(10) "Department" means the Department of *Health and Rehabilitative Services* ~~Insurance~~.

(11) "Financial report" means a report of audited actual experience for nursing homes as required under the uniform system of financial reporting pursuant to s. 407.31.

(12)~~(11)~~ "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges, and other operating revenue. Gross revenues do not include contributions, donations, legacies, or bequests made to a hospital without restriction by the donors.

(13)~~(12)~~ "Hospital" means a health care institution as defined in s. 395.002(6).

(14)~~(13)~~ "Local health council" means the agency defined in s. *381.703* ~~381.493(3)(p)~~.

(15)~~(14)~~ "Major health care purchaser" means *a major* ~~1 of the 10 largest~~ private *employer* ~~employers~~ in the state, a commercial health insurer, or a health care services plan certificated under chapter 641.

~~(15) "Maximum allowable rate of increase" or "MARI" means the maximum rate at which a hospital is expected to increase its average gross revenues per adjusted admission for a given period. The maximum allowable rate of increase is composed of two parts, the market basket index and plus points, which are defined as follows:~~

(16)~~(a)~~ "Market basket index" means the revised market basket index used to measure the inflation in hospital input prices as employed on January 1, *1988* ~~1984~~, by the Secretary of the United States Department of Health and Human Services for Medicare reimbursement. If the measure ceases to be calculated in this manner, the inflation index shall be the index approved by rule promulgated by the board. The method used in determining the index approved by rule shall be substantially the same as the method employed on January 1, *1988* ~~1984~~, for determining the inflation in hospital input prices by the Secretary of the United States Department of Health and Human Services for purposes of Medicare reimbursement.

~~(b) "Plus points" means additional percentage points added to the market basket index to adjust for the Florida specific experience. The plus points to be added to the market basket index shall be 5 percent for calendar year 1985; 4 percent for calendar year 1986; and 3 percent for each year thereafter.~~

(17) "Maximum allowable rate of increase" or "MARI" means the maximum rate at which a hospital is normally expected to increase its average gross revenues per adjusted admission for a given period. The board, using the most recent audited actual experience for each hospital, shall calculate the MARI for each hospital as follows: the projected rate of increase in the market basket index shall be divided by a number which is determined by subtracting the sum of one-half of the proportion of Medicare days plus the proportion of Medicaid days and the proportion of charity care days from the number one. Two percentage points shall be added to this quotient. The formula to be employed by the board to calculate the MARI shall take the following form:

$$MARI = \left(\frac{NHIPI}{1-[(Me \times .5) + Md + Cc]}\right) + 2$$

where:

MARI = maximum allowable rate of increase applied to gross revenue.

NHIPI = national hospital input price index, which shall be the projected rate of change in the market basket index.

Me = proportion of Medicare days, including when available and reported to the board Medicare HMO days, to total days.

Md = proportion of Medicaid days, including when available and reported to the board Medicaid HMO days, to total days.

Cc = proportion of charity care days to total days with a 50-percent offset for restricted grants for charity care and unrestricted grants from local governments.

(18)~~(16)~~ "Medically indigent" means a person who has insufficient resources or assets to pay for needed medical care without utilizing his resources required to meet his basic needs for shelter, food, and clothing.

(19)~~(17)~~ "Net revenue" means gross revenue minus deductions from revenue.

(20) "Nursing home" means a facility licensed under s. 400.062, but does not include a facility licensed under chapter 651.

(21)~~(18)~~ "Operating expenses" or "operating expenditures" means the sum of daily hospital service expenses, ambulatory service expenses, ancillary expenses, and other operating expenses, excluding income taxes.

(22)~~(19)~~ "Other operating revenue" means all revenue generated from hospital operations other than revenue directly associated with patient care.

(23) "Rate of return" means the financial indicators used to determine or demonstrate reasonableness of the financial requirements of a hospital. Such indicators shall include, but not be limited to: return on assets, return on equity, total margin and debt service coverage.

(24) "Rural hospital" means an acute care hospital licensed under chapter 395, with 85 beds or less, which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile;

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from another acute care hospital within the same county; or

(c) A provider supported by a hospital tax district whose boundaries encompass a population of 100 persons or less per square mile.

(25)~~(20)~~ "Special study" means a nonrecurring data-gathering and analysis effort designed to aid the board in meeting its responsibilities pursuant to this part.

(26)~~(21)~~ "State health planning agency" means the agency designated by the Governor to perform the health planning and development functions *for the state* ~~prescribed by s. 1523, Pub. L. No. 93-641, the National Health Planning and Resources Development Act of 1974~~.

(27)~~(22)~~ "Teaching hospital" means any hospital formally affiliated with an accredited medical school that exhibits activity in the area of medical education as reflected by at least seven different resident physician specialties and the presence of 100 or more resident physicians.

(28)~~(23)~~ "Total deductions from gross revenue" or "deductions from revenue" means reductions from gross revenue resulting from inability to collect payment of charges. Such reductions include bad debts; contractual adjustments; uncompensated care; administrative, courtesy, and policy discounts and adjustments; and other such revenue deductions, but also includes the offset of restricted donations and grants for indigent care.

Section 3. Section 395.5025, Florida Statutes, is renumbered as section 407.003, Florida Statutes, and amended to read:

407.003 ~~395.5025~~ Legislative intent to assure affordable health care.—

(1) It is the intent of the Legislature to assure that adequate health care is affordable and accessible to all the citizens of this state. To further the accomplishment of this goal, the *Health Care* ~~Hospital~~ Cost Containment Board is created to*:*

(a) Advise the *Governor, the President of the Senate, and the Speaker of the House of Representatives* ~~Legislature~~ regarding health care costs,~~;~~ inflationary trends in health care costs,~~;~~ the impact of health care costs on the state budget,~~;~~ the impact of hospital *and other provider* charges, and third-party reimbursement mechanisms on health care costs.~~; and the education of~~

(b) Educate consumers and providers of health care services in order to encourage price competition in the health care marketplace.

(c) Promote improved consumer and purchaser understanding of government health care funding programs and third-party reimbursement.

(d) Recommend to the Governor, the President of the Senate, and the Speaker of the House of Representatives appropriate strategies necessary to foster health care cost containment and improve access to health care services.

(2) The Legislature *further* finds and declares that rising hospital *and other health care* costs, and cost shifting *and cross-subsidization by hospitals to increase revenues, whether the need is due to high levels of uncompensated care, Medicare, or other causes,* are of vital concern to the people of this state because of the danger that hospital *and other health care* services are becoming unaffordable and thus inaccessible to residents of the state.

(3) The Legislature ~~It is~~ further *declares* ~~declared~~ that *every effort* ~~hospital costs~~ should be *made to contain hospital costs* ~~contained~~ through improved competition between hospitals and improved competition between insurers, through financial incentives which foster efficiency instead of inefficiency, and through sincere initiatives on behalf of providers, insurers, and consumers to contain costs. *However,* as a safety net, it is the intent of the Legislature to*:*

(a) Establish a program *which will contain hospital charges that exceed certain thresholds, where* ~~of prospective budget review and approval in the event that~~ competition-oriented methods do not adequately contain costs. ~~and the~~

(b) Assure access of Floridians to adequate hospital care *which may become* ~~becomes~~ jeopardized because of unaffordable costs.

Section 4. Section 395.503, Florida Statutes, is renumbered as section 407.01, Florida Statutes, and amended to read:

407.01 ~~395.503~~ *Health Care* ~~Hospital~~ Cost Containment Board.—

(1)(a) There is created the *Health Care* ~~Hospital~~ Cost Containment Board~~.~~ *within the Department of Health and Rehabilitative Services. The board shall be a separate budget entity and the executive director shall be its agency head for all purposes; however, in matters involving chapter 120, the board shall be the agency head as defined in s. 120.52. The Department of Health and Rehabilitative Services shall provide administrative support and service to the board to the extent requested by the executive director. The board shall not be subject to control, supervision, or direction by the Department of Health and Rehabilitative Services in any manner, including, but not limited to personnel, purchasing, transactions involving real or personal property, and budgetary matters.* ~~The board shall be administratively located within the office of the secretary of the Department of Health and Rehabilitative Services.~~

(b) Effective January 1, 1989, and beginning with terms starting on that date, the board ~~and~~ shall be composed of *nine* ~~eleven~~ members appointed by the Governor and confirmed by the Senate. *Three* ~~Four~~ members must be providers of health care, including *one representative of the for-profit hospitals, one representative of the not-for-profit hospitals* ~~two representatives of the hospital industry~~ and one representative of the nursing home industry; three members must *have experience as* ~~be~~ major purchasers of health care; and *three* ~~four~~ members must be consumers with no direct involvement in health care. All members of the board must be permanent residents of the state, and at least one *consumer* member of the board must be 60 years of age or older.

(c)~~(b)~~ Each appointment to the board shall be for a 3-year term, except that the initial appointment of the provider member added by chapter 87-92, Laws of Florida, shall be for a term ending December 31, 1989, and the initial appointment of the consumer member added by chapter 87-92, Laws of Florida, shall be for a term ending December 31, 1988. No member is eligible for appointment for more than two *full* consecutive terms~~, regardless of the length of any one term~~. A vacancy on the board shall be filled within 60 days from the date on which the vacancy occurs, *and* ~~which appointment~~ shall be made for the remainder of the unexpired term.

(d)~~(c)~~ The Governor may remove from office any member who would no longer be eligible to serve on the board by virtue of the requirement that he be a provider, purchaser, consumer, or resident of the state; who becomes disqualified for neglect of any duty required by law; or who misses more than four meetings in any one year.

(2)(a) The members of the board shall biennially elect a chairperson and a vice chairperson from its membership. The board shall meet from time to time to fulfill its responsibilities. Meetings may be called by the chairperson or any five members and, except in the event of an emergency, shall be called by written notice. Meetings shall be called in advance and be open to the public. Five voting members of the board constitute a quorum.

(b) Board members shall be remunerated at the rate of $50 per diem while on official board business and shall be reimbursed for their expenses while on official business for the board in accordance with the provisions of s. 112.061.

(3)(a) The board shall appoint an executive director who shall serve at the pleasure of the board and who shall have had experience in the organization, financing, or delivery of health care. The executive director shall perform the duties delegated to him by the board. The executive director, with the concurrence of the board, shall appoint, and may terminate, a general counsel, a *director of finance* ~~chief financial analyst~~ with at least 5 years' experience in hospital financial management, a director of public information, *a director of administration,* and a director of research and may appoint, with the consent of the board, such other staff and staff attorneys as the board deems necessary. The board may contract with persons outside the board for services necessary to carry out its activities when this will promote efficiency, avoid duplication of effort, and make the best use of available expertise.

(b) The board may apply for and receive and accept grants, gifts, and other payments, including property and service from any governmental or other public or private entity or person, and make arrangements as to the use of same, including the undertaking of special studies and other projects relating to health care costs.

(4) The board may create committees from its membership and may create such ad hoc advisory committees to advise the board and its staff in specialized fields ~~related to the functions of hospitals~~ as it deems necessary. The members of any ad hoc advisory committee shall be entitled to reimbursement for expenses incurred, including travel expenses.

Section 5. Section 395.504, Florida Statutes, as amended by chapter 88-1, Laws of Florida, is renumbered as section 407.02, Florida Statutes, and amended to read:

407.02 ~~395.504~~ Powers and duties of board.—To properly carry out its authority, the board:

(1) Shall require the submission by hospitals of such case-mix, financial, nonfinancial, accounting, and actual charge data by diagnostic groups as the board deems necessary in order to have available the statistical information necessary to properly conduct *financial analyses and* budget review and approval and to carry out its public information and education functions as contained in s. *407.09* ~~395.5085~~.

(a) Such requirement shall be promulgated by rule if the submission of case-mix, financial, nonfinancial, accounting, and actual charge data by diagnostic groups is being required of all hospitals or of any group thereof; however, rules are not required for the submission of data for a special study or when information is being requested for a single hospital.

(b) Such data may include, but is not limited to: leases, contracts, *debt instruments,* itemized patient bills, medical record abstracts, and related diagnostic information necessary to evaluate the case mix of a hospital and to identify actual charges and lengths of stay associated with specific diagnostic groups; necessary operating expenses; appropriate expenses incurred for rendering services to patients who cannot or do not pay; all properly incurred interest charges; and reasonable depreciation expenses based on the expected useful life of the property and equipment involved.

(2) Shall approve, *disapprove* ~~approve as amended by the board~~, or disapprove *in part* the budget of each hospital *requesting increases above the maximum allowable rate of increase,* including its projected expenditures and projected revenues.

(3) May contract with local health councils to disseminate information to the public on health care costs.

(4) Shall cooperate with the comprehensive Health Planning Office of the Department of Health and Rehabilitative Services in the development of a biennial work plan defining the roles and responsibilities of the board and the comprehensive Health Planning Office in the establishment of an integrated health care data base and shall consult with and make recommendations to the *Governor, the President of the Senate, and the Speaker of the House of Representatives,* ~~board~~ and the Secretary of Health and Rehabilitative Services with respect to analyses and studies of health care costs, capital expenditures by hospitals and their relationship to health care costs, and related matters which may be undertaken by the board.

(5) May inspect and audit hospital books and records, *and* ~~including~~ records of individual or corporate ownership, *including books and records of related organizations with which a hospital had transactions,* for compliance with this part. *As used in this subsection, the term "related organizations" means organizations related to the hospital by common ownership or control.* Upon presentation of a written request for inspection to a hospital by the board or its staff, the hospital shall make available to the board or its staff for inspection, copying, and review all books and records relevant to the determination of whether the hospital has complied with this part.

(6) Shall publish and make available to the public a toll-free telephone number for the purpose of handling consumer complaints and shall serve as a liaison between consumer entities and other private entities and governmental entities for the disposition of problems identified by consumers of hospital care.

(7) Shall monitor *and report on* the effects of *prospective payment arrangements* ~~preferred provider organizations~~ and changes in reimbursement methodologies for Medicare on cost shifting.

(8) Shall designate executive staff members to issue preliminary findings pursuant to s. *407.50(9)(a)* ~~395.509(9)~~.

(9)~~(a)~~ Shall publish, based on information provided by the Department of Insurance under s. 627.9175(1), an annual report containing premium and benefit comparisons, or the equivalent thereof, for policies of individual health insurance and shall disseminate the report in the manner provided in s. *407.09* ~~395.5085~~. The report shall also indicate, as applicable, the extent to which the premiums charged by a given entity have increased over the prior premium year.

~~(b) Shall publish, based on information provided by the Department of Insurance under s. 627.9175(3), an annual report containing available physician charge comparisons, profiles, and related information and shall disseminate the report in the manner provided in s. 395.5085.~~

(10) Shall be empowered to investigate consumer complaints relating to problems with hospital billing practices and issue reports to be made public in any cases where the board determines the hospital has engaged in billing practices which are unreasonable and unfair to the consumer.

Section 6. Section 407.025, Florida Statutes, is created to read:

407.025 Reporting and use of data; immunity.—No hospital or other reporting entity or its employees or agents shall be held liable for civil damages nor subject to criminal penalties either for the reporting of patient data to the Health Care Cost Containment Board or for the release of this data by the board as authorized pursuant to this chapter.

Section 7. Section 395.505, Florida Statutes, is renumbered as section 407.03, Florida Statutes, and amended to read:

407.03 ~~395.505~~ Rules; public hearings; investigations; subpoena power.—In addition to the powers granted to the board elsewhere in this *chapter* ~~part~~, the board is authorized to:

(1) Adopt, amend, and repeal rules respecting the exercise of the powers conferred by this *chapter* ~~part~~ which are applicable to the promulgation of rules.

(2) Hold public hearings, conduct investigations, and subpoena witnesses, papers, records, and documents in connection therewith. The board may administer oaths or affirmations in any hearing or investigation.

(3) Exercise, subject to the limitations and restrictions herein imposed, all other powers which are reasonably necessary or essential to carry out the expressed objects and purposes of this *chapter* ~~part~~.

Section 8. Section 395.5051, Florida Statutes, is renumbered as section 407.035, Florida Statutes, and amended to read:

407.035 ~~395.5051~~ Effect ~~of ch. 84-35, Laws of Florida~~, on existing rules.—Nothing contained in *this act* ~~chapter 84-35, Laws of Florida~~, is intended to repeal or modify any of the existing rules of the Hospital Cost Containment Board, as *adopted to implement chapter 84-35, Laws of Florida* ~~created in s. 395.503~~, unless such rule or part thereof is in direct conflict with the provisions of *this act; provided, any budget or budget amendment for fiscal years beginning prior to February 1, 1989, shall be filed and reviewed pursuant to chapter 84-35, Laws of Florida, and rules adopted by the board pursuant thereto* ~~chapter 84-35~~.

Section 9. Section 395.512, Florida Statutes, is renumbered as section 407.04, Florida Statutes, and amended to read:

407.04 ~~395.512~~ Budget; expenses; assessments; *health care* ~~hospital~~ cost containment program account.—

(1) The board shall biennially prepare a budget which shall include an estimate of income and expenditures for administration and operation of the *health care* ~~hospital~~ cost containment program for the biennium, to be submitted to the Governor for transmittal to the Legislature for approval. Subject to the approval of the Legislature, expenses of the program shall be financed by assessments against hospitals in an amount to be determined biennially by the board, but not to exceed 0.04 percent of the gross operating costs of each hospital for the provision of hospital services for its last fiscal year. Every new hospital shall pay its initial assessment upon being licensed by the state and shall base its assessment payment during the first year of operation upon its projections for gross operating costs for that year. Each hospital under new ownership shall pay its initial assessment for the first year of operation under new ownership based on its gross operating costs for the last fiscal year under previous ownership. The assessments shall be levied and collected quarterly. All moneys collected are to be deposited by the Treasurer into the *Health Care* ~~Hospital~~ Cost Containment Trust Fund in the general fund, which account is hereby created. The *Health Care* ~~Hospital~~ Cost Containment Trust Fund shall be subject to the service charge imposed pursuant to chapter 215.

(2) Any amounts raised by the collection of assessments from hospitals provided for in this section which are not required to meet appropriations in the budget act for the current fiscal year shall be available to the board in succeeding years.

(3) Hospitals operated by the Department of Health and Rehabilitative Services or the Department of Corrections are exempt from the assessments required under this section.

(4) The Health Care Cost Containment Board shall submit its final legislative budget request directly to the Governor as chief budget officer of the state in the form and manner prescribed in the budget instructions. However, the final legislative budget request shall be submitted no later than November 1 of each even-numbered year.

Section 10. Section 395.507, Florida Statutes, is renumbered as section 407.05, Florida Statutes, and amended to read:

407.05 ~~395.507~~ Uniform system of financial reporting *for hospitals*.—

(1) The board shall, by rule, after consulting with appropriate professional and governmental advisory bodies and holding public hearings, and considering existing and proposed systems of accounting and reporting utilized by hospitals, specify a uniform system of financial reporting based on a uniform chart of accounts developed after considering the American Hospital Association Chart of Accounts, the American Institute of Certified Public Accountants Hospital Audit Guide, and generally accepted accounting principles. However, this provision shall not be construed to authorize the board to require hospitals to adopt a uniform accounting system. As a part of such uniform system of financial reporting, the board may require the filing of any information relating to the cost, to both the provider and the consumer, of any service provided in such hospital except the cost of a physician's services which is billed independently of the hospital.

(2) For the purposes of this part, and in order to allow meaningful comparisons *in the budget review process*, the board shall, by rule, group hospitals according to characteristics, including, but not limited to, a measure of the nature and range of services provided, teaching hospital status, number of medical specialties represented on the hospital staff, percentage of Medicare inpatient days, average daily census, geographical differences, and, when available, case mix. The rule shall provide for the establishment of *not more than 15 statistically valid* ~~10~~ general groups and for the establishment of additional specialty groups as needed; however, no group shall contain fewer than five hospitals.

(3) In establishing such uniform reporting procedures, the board shall, among other issues, take into consideration the need for financial data which reflects the average bill per day and the average bill per stay billed by the hospital and the degree of cross-subsidization by cost center.

(4) When appropriate, the reporting system shall be structured so as to establish and differentiate costs incurred for patient-related services rendered by hospitals, as distinguished from those incurred in connection with educational research and other non-patient-related activities, including, but not limited to, charitable activities of such hospitals.

(5) When more than one licensed hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.

(6) At least 90 days prior to the commencement of its next fiscal year, each hospital *requesting approval of a rate of increase in gross revenue per adjusted admission in excess of its applicable maximum allowable rate of increase for such next fiscal year* shall file with the board, on forms adopted by the board and based on the uniform system of financial reporting:

(a) Its budget for the next fiscal year, including projected expenditures, projected revenues, and statistical measures necessary for the board to evaluate these projections. Any hospital the final budget of which requires public review and approval may submit its budget prior to public review and approval and shall subsequently file any amendments adopted during the public review process at least 45 days prior to the beginning of the fiscal year of the hospital.

(b) Its actual experience for the first 6 months of its current fiscal year, including actual expenditures, actual revenues, and statistical measures necessary for the board to evaluate the actual experience.

(c) Its estimated experience for the last 6 months of its current fiscal year, including estimated expenditures, estimated revenues, and statistical measures necessary for the board to evaluate these estimates.

(d) Information necessary for the board to evaluate the effectiveness of current services and the justification of the hospital for increased costs to continue current services, improve existing services, and provide new services.

(e) Its schedule of projected rates which will be implemented to generate projected revenues.

(7) Within 120 days after its fiscal year ends, each hospital shall file with the board, on forms adopted by the board and based on the uniform system of financial reporting, its actual audited experience for that fiscal year, including expenditures, revenues, and statistical measures.

(8) The board may require other reports based on the uniform system of financial reporting necessary to accomplish the purposes of this part.

(9) The Shriners Hospital for Crippled Children, located in Tampa, is exempt from the financial reporting requirements of this *chapter* ~~part~~ until such time as it first receives revenues from or on behalf of any individual patient.

Section 11. Section 395.514, Florida Statutes, is renumbered as section 407.06, Florida Statutes, and amended to read:

407.06 ~~395.514~~ Violation of *chapter* ~~part~~ or rule; penalties.—*Refusal* ~~Any hospital which refuses~~ to file, *failure* ~~fails~~ to timely file, or *filing* ~~files~~

false or incomplete reports or other information required to be filed under the provisions of this *chapter* ~~part~~, or *violation of* ~~which violates~~ any other provision of this *chapter* ~~part~~ or rule adopted under this *chapter* ~~part~~, shall be punished by a fine not exceeding $1,000 a day for each day in violation, to be fixed, imposed, and collected by the board. Each day in violation shall be considered a separate offense. The violation of any provision of this *chapter* ~~part~~ or of a rule adopted under this *chapter* ~~part~~, or the knowing and willful falsification of a report required under this *chapter* ~~part~~, is a ground for the imposition of an administrative fine not to exceed $20,000, to be fixed, imposed, and collected by the Department of Health and Rehabilitative Services.

Section 12. Section 395.508, Florida Statutes, is renumbered as section 407.07, Florida Statutes, and amended to read:

407.07 ~~395.508~~ *Health care* ~~Hospital~~ costs and finances; analyses, studies, and reports.—

(1) The board shall *have the authority to:*

(a) Collect data and conduct ~~from time to time undertake~~ analyses and studies relating to health care costs, making maximum use of local health councils and the designated state health planning agency whenever *appropriate.* ~~possible, and~~

(b) Conduct analysis and research relating to the financial status of any hospital or hospitals subject to the provisions of this part.

(c) ~~The board and the department shall~~ Jointly develop, *with the Department of Insurance or the Department of Health and Rehabilitative Services,* criteria to analyze and study the *ongoing* effect upon health care costs of third-party reimbursement mechanisms, *including the effects of Medicare, Medicaid and other government reimbursement mechanisms.* The board shall incorporate into its reports the findings of the *Department of Insurance* ~~department~~ relating to the effect upon health care costs of third-party reimbursement mechanisms, including health insurance as defined in ss. 624.603 and 627.652, health care service plans as defined in s. 641.01, and health maintenance organizations as defined in s. 641.19(6).

(d) Conduct analysis and research relating to the impact of uncompensated charity care on hospital budgets.

(e) Conduct analysis and research on the state's role in assisting to fund indigent care.

(f) ~~The board may~~ Publish and disseminate such information as *the board* ~~it~~ deems desirable *and* in the public interest, *including information which will assist consumers and purchasers to understand the impact government-funded programs and third-party reimbursement mechanisms may have on hospital finances.*

(2) The board shall also prepare and file such summaries and compilations or other supplementary reports based on the information analyzed by the board hereunder as will advance the purposes of this *chapter* ~~part~~.

Section 13. Section 395.513, Florida Statutes, is renumbered as section 407.08, Florida Statutes, and amended to read:

407.08 ~~395.513~~ Program accountability.—On or before March 1 of each year, the board shall prepare and transmit to the Governor and the Legislature a report of *health care* ~~hospital~~ cost containment *board* program operations and activities for the preceding year. This report shall include copies of summaries, compilations, and supplementary reports required by this *chapter* ~~part~~, together with such facts, suggestions, and policy recommendations as the board deems necessary. The board shall specifically state its findings and recommendations on the following issues:

(1) The extent to which cross-subsidization affects the rates and charges for different types of hospital services *and an analysis of the reasons for existing levels of cross-subsidization.*

(2) The extent to which third-party reimbursement mechanisms affect health care costs.

(3) The extent to which public funding policies may be affecting health care costs.

(4) The extent to which other factors in the health care marketplace may be affecting health care costs, including, but not limited to, uncompensated care, skilled employee shortages, changes in technology, shifts from institutional to ambulatory care, and shifts in the demographic makeup of the state's population.

Section 14. Section 395.5085, Florida Statutes, is renumbered as section 407.09, Florida Statutes, and amended to read:

407.09 ~~395.5085~~ Collection and dissemination of *health care* ~~hospital~~ charges and other *health-care-specific* ~~hospital-specific~~ information; ~~Consumer Information Network.~~—

(1) The board, relying on ~~summary actual charge~~ data ~~by diagnostic groups and other information~~ collected pursuant to *this act* ~~s. 395.504(1)~~, shall establish a reliable, timely, and consistent information system *which distributes information utilizing the consumer information and advisory council pursuant to s. 407.10, and any other appropriate means available.*

(2) Semiannually, the board shall identify, by hospital, average charges and lengths of stay associated with established diagnostic groups. Charge information shall be cited for at least the following payer classifications: insurance, not-for-profit insurance, Medicaid, and Medicare. Combined average charges for all payer classifications reported shall be published by the board semiannually for dissemination to the media and the public at large. The publication shall identify charges associated with at least the 10 most frequently occurring diagnostic groups and such other information as the board deems appropriate, published by county or region.

~~(3) The board shall coordinate the distribution of summary actual charge data by diagnostic groups and special publications through a Consumer Information Network. The membership of this network may include the members of the Senate and the House of Representatives; consumer service offices located within the Department of Insurance; insurance companies licensed to write policies for health insurance in this state; Florida business coalitions on health care; local health councils and the designated state health planning agency; the Board of Medical Examiners; and hospitals.~~

(3) The Board of *Medicine* ~~Medical Examiners~~ may include the current publication of hospital charges in its mailings related to license renewals. Hospitals are required to make the current publication of hospital charges available to patients or family members for review upon the request of the patient or family member.

~~(4) The board shall, through the Consumer Information Network, conduct consumer information seminars at locations throughout the state.~~

Section 15. Section 407.10, Florida Statutes, is created to read:

407.10 Consumer information and advisory council.—The board shall coordinate the distribution of data, special publications, and other health care information collected or developed by the board with the assistance of the consumer information and advisory council.

(1) The membership of the council shall be appointed by the board and may include members of the Senate and the House of Representatives; a representative of the office of the Public Counsel; representatives of consumer service offices located within the Department of Insurance; representatives of insurance companies licensed to write policies for health insurance in this state; representatives of Florida business coalitions on health care; representatives of local health councils; a representative from the designated state health planning agency; a member of the Board of Medicine; and representatives of health care consumers, nursing homes, and hospitals.

(2) The council may conduct or sponsor consumer information and education seminars at locations throughout the state, and may hold public hearings to solicit consumer concerns or complaints relating to health care costs and make recommendations to the board for study, action, or investigation.

(3) The council shall be entitled to reimbursement for expenses incurred to fulfill the function of this part, including travel expenses.

Section 16. Section 395.5042, Florida Statutes, is renumbered as section 407.11, Florida Statutes, and amended to read:

407.11 ~~395.5042~~ Office of Technical Assistance within board.—It is the intent of the Legislature to create a single entity to serve as a focal point for governmental efforts and activities to promote health care cost

containment by providing technical assistance to persons, businesses, and purchaser coalitions interested in containing the costs of health care. Therefore, there is created within the *Health Care* ~~Hospital~~ Cost Containment Board the Office of Technical Assistance, which shall include such professional, technical, and clerical staff as may be necessary to enable it to carry out its duties. The Office of Technical Assistance shall:

(1) Assist employers in the formation of health care coalitions around the state.

(2) Develop model health care benefit packages for use by employers and providers in implementing health benefit plans which promote the cost-effective delivery of adequate care.

(3) Serve as a clearinghouse for information concerning innovations in the delivery of health care services and the enhancement of competition in the health care marketplace.

(4) *Make recommendations relating to* ~~Pursue the implementation of~~ mechanisms through which state government *might* ~~will~~ lead by example in the prudent purchase of *cost-effective* ~~adequate~~ health services *for its employees and clients.*

(5) *Assist* ~~Work with~~ existing health coalitions and local health councils *as needed* in carrying out their respective goals in an efficient and effective manner.

(6) Develop cost containment strategies for use by providers, employers, or consumers of health care.

(7) Serve as a clearinghouse for information concerning federal and state legislative initiatives affecting the private health care delivery system and governmental health care programs.

(8) Develop an outreach program to assist small business to include cost containment initiatives for small business health insurance plans.

Section 17. Section 395.511, Florida Statutes, is renumbered as section 407.12, Florida Statutes, and amended to read:

407.12 ~~395.511~~ Quality assurance *monitoring* ~~programs~~.—Each hospital shall maintain a quality assurance program~~,~~ which ~~program~~ shall include monitoring of the necessity of admission, appropriateness of the length of stay, proper utilization of services, and the evaluation of the quality of services rendered. Quality assurance plans shall be available to the board upon request. *The Department of Health and Rehabilitative Services, the Department of Insurance, or the Department of Professional Regulation shall provide, upon request, any information the board determines necessary to monitor a hospital's quality assurance. The board shall exercise the same confidentiality restrictions imposed by law on the providing agency.*

Section 18. Section 395.515, Florida Statutes, is renumbered as section 407.13, Florida Statutes, and amended to read:

407.13 ~~395.515~~ Prospective payment arrangements.—

(1) The Legislature finds that the traditional retrospective reimbursement practices of health insurers provide hospitals with disincentives to contain costs and are a major contributing factor to the rapidly escalating costs of hospital care. The Legislature further finds that prospective payment arrangements designed to provide hospitals with financial incentives to contain costs will contribute to the deceleration of hospital cost increases while enhancing the adequacy of and access to care so highly valued by consumers. Furthermore, prospective payment arrangements that provide fixed payment amounts which are prospectively set through private-sector negotiation will provide insurers with a greater degree of investment stability. Therefore, the Legislature finds that it is the business of insurance, as well as in the best interests of the citizens of this state, that insurers, on behalf of their insureds, should negotiate with hospitals to establish prospective payment arrangements that provide financial incentives for the containment of hospital costs.

(2) For the purposes of this *chapter* ~~section~~, the term "prospective payment arrangement" means a financial agreement, negotiated between a hospital and an insurer, health maintenance organization, preferred provider organization, or other third-party payer, which contains, at a minimum, the elements provided for in subsection (4).

(3) Hospitals, as defined in s. 395.002, and health insurers, regulated pursuant to parts VI and VII of chapter 627, shall establish ~~by no later than March 1, 1987,~~ prospective payment arrangements that provide hospitals with financial incentives to contain costs. Each hospital shall negotiate with each health insurer which represents 10 percent or more of the private-pay patients of the hospital to establish a prospective payment arrangement. ~~Beginning October 1, 1985, and annually thereafter,~~ Hospitals and health insurers regulated pursuant to this section shall report *on October 1 of each year* the results of each specific prospective payment arrangement adopted by each hospital and health insurer to the *Health Care* ~~Hospital~~ Cost Containment Board, hereinafter referred to as the "board." In the event that a hospital or a health insurer *does* ~~has~~ not *comply* ~~complied by March 1, 1987,~~ with the requirements of this section, such hospital or health insurer shall have 60 days in which to justify the reasons for its failure to comply to the board. The board shall take into account the failure of the hospital to comply in its approval or disapproval of the budget of the hospital. In addition, the board shall report a health insurer's failure to comply to the Department of Insurance, which shall take into account the failure by the health insurer to comply in conjunction with its approval authority under s. 627.410. The board shall adopt any rules necessary to carry out its responsibilities required by this section.

(4) The prospective payment system established pursuant to this section shall include, at a minimum, the following elements:

(a) A maximum allowable payment amount established for individual hospital products, services, patient diagnoses, patient day, patient admission, or per insured, or any combination thereof, which is preset at the beginning of the budget year of the hospital and fixed for the entirety of that budget year, except when extenuating and unusual circumstances acceptable to the board warrant renegotiation;

(b) Timely payment to the hospital by the insurer or the insured, or both, of the maximum allowable payment amount, as so negotiated by the insurer or group of insurers;

(c) Acceptance by the hospital of the maximum payment amount as payment in full, which shall include any deductible or coinsurance provided for in the insurer's benefit plan;

(d) Utilization reviews for appropriateness of treatment; and

(e) Preadmission screening of nonemergency surgery.

(5) Nothing contained in this section prohibits the inclusion of deductibles, coinsurance, or other cost containment provisions in any health insurance policy.

Section 19. Section 400.341, Florida Statutes, is renumbered as section 407.30, Florida Statutes, and amended to read:

407.30 ~~400.341~~ Legislative intent; nursing home costs.—The Legislature finds it to be in the best interest of the state that nursing home care be affordable and accessible to all persons requiring these services. Further, the Legislature finds there is a paucity of information on nursing home revenues and growth in those revenues, the equity of the burden in providing charity care, and nursing home rates and charges. The potential for growth in nursing home revenues and the effect of such growth on state and local government budgets and on the ability of persons to purchase nursing home care makes it vital that nursing home revenues and expenditures be documented and analyzed. The Legislature finds that the *Health Care* ~~Hospital~~ Cost Containment Board is the agency best qualified to collect, analyze, and monitor nursing home financial data and intends that the board carry out this responsibility in conjunction with the department and the State Nursing Home and Long-Term Care Facility Ombudsman Council and district nursing home and long-term care facility ombudsman councils.

Section 20. Section 400.343, Florida Statutes, is renumbered as section 407.31, Florida Statutes, and amended to read:

407.31 ~~400.343~~ Uniform system of financial reporting *for nursing homes.*—

(1) The board shall consult with appropriate professional and governmental advisory bodies, hold public hearings, and consider existing and proposed systems of accounting and reporting utilized by nursing homes and then establish by rule a uniform system of financial reporting. Such system shall be based on a uniform chart of accounts developed after considering the American Health Care Association's Uniform Chart of Accounts for Long Term Care Facilities, appropriate audit standards from the American Institute of Certified Public Accountants, and generally accepted accounting principles. Such system shall, to the extent fea-

sible, utilize existing accounting systems and shall make every effort to minimize paperwork to nursing home licensees. In addition, the board may not require nursing homes to adopt a uniform accounting system. The board may require the filing of any information relating to the provider's and consumer's cost of services provided in a nursing home, including physicians' compensation.

(2) Within 120 days after the end of its fiscal year, each nursing home shall file with the board, on forms adopted by the board and based on the uniform system of financial reporting, its actual audited experience for that fiscal year, including revenues, expenditures, and statistical measures, based on examination by an independent, state-licensed certified public accountant in accordance with generally accepted accounting principles. Each nursing home shall also submit a schedule of the charges in effect at the beginning of the fiscal year and any changes that were made during the fiscal year. A nursing home which is certified under Title XIX of the Social Security Act and files annual Medicaid cost reports may substitute copies of such reports and any Medicaid audits to the board in lieu of a report and audit required under this subsection. For such facilities, the board may require only information in compliance with this act that is not contained in the Medicaid cost report. Facilities which are certified under Title XVIII but not Title XIX of the Social Security Act must submit a report as developed by the board. This report will be substantially the same as the Medicaid cost report and shall not require any more information than is contained in the Medicare cost report unless that information is required of all nursing homes. The audit under Title XVIII shall satisfy the audit requirement under this subsection.

(3) In addition to information submitted in accordance with subsection (2), each nursing home shall track and file with the board, on a form adopted by the board and designed to protect the anonymity of residents, the following information, where applicable, reported for each resident or reported in the aggregate, if so directed by the board:

(a) Date of admission;

(b) Location from which admission was made;

(c) Age at the time of admission;

(d) Primary diagnosis at the time of admission;

(e) Source of financial support at the time of admission;

(f) Date of conversion to Medicaid;

(g) Amount spent on nursing home care prior to conversion to Medicaid, by payor source;

(h) Date of discharge;

(i) Reason for discharge; and

(j) Location to which resident is discharged.

(4) The board may require other reports based on the uniform system of financial reporting necessary to accomplish the purposes of ss. *407.30-407.34* ~~400.341-400.346~~. Such requirements shall be established by rule unless the reports are part of a nonrecurring study or unless information is being requested for a single nursing home.

(5) If more than one licensed nursing home facility is operated by the reporting organization, the information required by this section shall be reported for each nursing home and for the organization's home office separately.

(6) All reports filed under ss. *407.30-407.34* ~~400.341-400.346~~, except privileged medical information, shall be open to public inspection.

(7) In the event the board has reason to believe that there is evidence of noncompliance with any of the provisions of *ss. 407.30-407.34* ~~this act~~, the board may inspect and audit nursing home books and records, including records of individual or corporate ownership, for compliance with *ss. 407.30-407.34* ~~this act~~. Upon presentation to a nursing home of a written request for inspection, the nursing home shall make available to the board or its staff for inspection, copying, and review all books and records relevant to the determination of whether the nursing home has complied with ss. *407.30-407.34* ~~400.341-400.346~~.

Section 21. Section 400.344, Florida Statutes, is renumbered as section 407.32, Florida Statutes, and amended to read:

407.32 ~~400.344~~ Nursing home revenues and financial *analyses* ~~analysis~~, studies, and reports.—

(1) The board shall evaluate data from nursing home financial reports beginning with nursing home fiscal years starting January 1, 1985, and shall document and monitor:

(a) Total revenues, annual change in revenues, and revenues by source and classification, including contributions for a patient's care from the patient's resources and from the family and contributions not directed toward any specific patient's care.

(b) Average patient charges by geographic region, payor, and type of facility ownership.

(c) Profit margins by geographic region and type of facility ownership.

(d) Amount of charity care provided by geographic region and type of facility ownership.

(e) Patient days by *payer* ~~prior~~ category.

(f) Experience related to Medicaid conversion as reported under s. *407.31(3)* ~~400.343(3)~~.

(g) Other information pertaining to nursing home revenues and expenditures.

The findings of the board shall be included in an annual report to the Governor and Legislature by January 1 each year.

(2) The board shall provide information relating to nursing home charges to the public through pamphlets, brochures, and other appropriate means *pursuant to s. 407.09 and* through the consumer information *and advisory council referred to in s. 407.10* ~~Network established by s. 395.5085~~.

(3) The board shall cooperate with and provide pertinent information on nursing home costs and charges to the department, local health councils, and the State Nursing Home and Long-Term Care Ombudsman Council and district nursing home and long-term care facility ombudsman councils.

(4) The board shall also prepare and make available such summaries and compilations or other supplementary studies and reports based on the information analyzed by the board hereunder as will advance the purposes of this chapter ~~part~~.

Section 22. Section 400.345, Florida Statutes, is renumbered as section 407.33, Florida Statutes, and amended to read:

407.33 ~~400.345~~ Budget, expenses, assessments*; nursing home financial disclosure program.*—

(1)(a) The board shall include in its biennial budget a separate estimate of income and expenditures for the administration and operation of the nursing home financial disclosure program. Subject to legislative approval, expenses of the program shall be financed by assessments against each nursing home in an amount set by the Department of Health and Rehabilitative Services to cover the board's approved budget.

(b) The board shall annually notify the department of its approved budget. The department shall calculate the amount to be collected per bed, rounded to the nearest whole dollar. All license fees collected under this section which are due after the date of notification by the board shall be at a rate sufficient to cover the board's approved budget.

(c) Assessments shall be levied and collected annually by the department. Moneys collected shall be deposited by the department into the *Health Care* ~~Hospital~~ Cost Containment Board Trust Fund as collected, but such funds shall be maintained in a separate account.

(d) Each new nursing home shall pay its initial assessment upon being licensed, and each nursing home under new ownership shall pay its initial assessment under the new ownership based on its number of beds.

(2) Moneys raised by collection of assessments from nursing homes which are not required to meet the appropriation for the current fiscal year shall be available to the board in succeeding years.

Section 23. Section 400.346, Florida Statutes, is renumbered as section 407.34, Florida Statutes, and amended to read:

407.34 ~~400.346~~ *Nursing home violations;* penalty.—Any nursing home which refuses to file a report, fails to timely file a report, files a false report, or files an incomplete report and upon notification fails to timely file a complete report required under ss. *407.30-407.34* ~~400.341-400.346~~, or which violates any provision of ss. *407.30-407.34* ~~400.341-400.346~~ or rule adopted thereunder, shall be punished by a fine not exceeding $1,000 per day for each day in violation, to be imposed and collected by the board.

Section 24. Section 395.509, Florida Statutes, is renumbered as section 407.50, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 395.509, F.S., for present text.)

407.50 Review of hospital budgets.—

(1) The base for hospital budget review for fiscal year 1990-1991 shall be the hospital's prior year actual gross revenues per adjusted admission inflated forward by the hospital's applicable current year's maximum allowable rate of increase or the board-approved budgeted gross revenues per adjusted admission, whichever is higher; provided that, in cases where the board has approved a rate of increase below the MARI, the board-approved maximum allowable rate of increase shall apply.

(2)(a) Except for hospitals filing a budget pursuant to subsection (3), each hospital, at least 90 days prior to the commencement of its next fiscal year, shall file with the board a certified statement, hereafter known as the "budget letter," acknowledging its applicable maximum allowable rate of increase in gross revenue per adjusted admission from the previous fiscal year as calculated pursuant to s. 407.002(17); and its maximum projected gross revenue per adjusted admission for the next fiscal year; and shall affirm that the hospital shall not exceed such applicable maximum allowable rate of increase. Such letter shall be deemed to be the budget for the hospital for that fiscal year and shall be automatically approved by operation of law. However, the board shall have 30 days from receipt of the budget letter to determine if the gross revenues per adjusted admission submitted by the hospital are within the maximum allowable rate of increase for that hospital.

(b) If a hospital's gross revenues per adjusted admission, as determined by its audited actual experience in any one year, increases at a percentage rate less than the maximum allowable rate of increase or board-approved rate of increase, whichever is lower, the hospital may carry forward the difference, and earn up to a cumulative maximum of 3 "banked" percentage points which may be banked to be used in the future. Such banked percentage points may be added to the hospital's maximum allowable rate of increase to increase the gross revenues per adjusted admission in future years, or such points may be used in the current fiscal year if a budget amendment would have been required to keep the hospital out of a penalty situation, provided that the hospital shall use its original approved maximum allowable rate of increase as its base. The hospital shall specify in the budget letter, or in an amendment to the budget letter submitted before the end of the hospital's fiscal year, the number of banked percentage points it intends to add to its maximum allowable rate of increase to increase its gross revenues per adjusted admission. A hospital shall be required to use banked percentage points before submitting a budget for detailed review or before submitting a request for a budget amendment. The board shall adopt rules which specify procedures for hospitals to bank and use any percentage points as authorized under this section.

(3) At least 90 days prior to the beginning of its fiscal year, each hospital requesting a rate of increase in gross revenue per adjusted admission in excess of the maximum allowable rate of increase for the hospital's next fiscal year, or each hospital utilizing banked percentage points pursuant to paragraph (2)(b) and requesting a rate of increase in excess of the maximum allowable rate of increase plus the available banked percentage points, shall be subject to detailed budget review and shall file its projected budget with the board for approval. In determining the base, the hospital's prior year audited actual experience shall be used, unless the hospital's prior year audited actual experience exceeded the applicable rate of increase, in which case the base shall be the gross revenue per adjusted admission from the year before the prior year, increased by the applicable rate of increase for the prior year, and then inflated by the applicable rate of increase for the current year. As used in this subsection, "applicable rate of increase" means the MARI unless the board has approved a different rate of increase, in which case such rate of increase shall apply. The projected budget filed under s. 407.05(6) shall be deemed approved unless it is disapproved by the board within 90 days after filing, except that where the hospital requests a hearing, the 90 days shall be tolled until 10 days after the board's receipt of the recommended order from the Division of Administrative Hearings of the Department of Administration. Upon agreement by the board and the hospital, the 90-day period may be waived or extended. As part of the review process conducted by the board, the board may approve, disapprove, or disapprove in part the projected budget. No hospital submitting a budget for approval shall operate at a level of expenditures or revenues which exceeds the maximum allowable rate of increase minus 1 percentage point, unless a higher rate of increase has been approved by the board. However, a hospital with banked percentage points requesting a rate of increase which exceeds the maximum allowable rate of increase plus the banked percentage points shall not operate at a level of expenditures or revenues in excess of 1 percentage point below the maximum allowable rate of increase plus the banked percentage points.

(4) For purposes of budget review and comparison and to assist in making determinations pursuant to subsection (8), the board shall:

(a) Establish groupings of hospitals according to characteristics, including, but not limited to, a measure of the nature and range of services provided, teaching hospital status, number of medical specialties represented on the hospital staff, percentage of Medicare inpatient days, average daily census, geographical differences, and case mix. The rule shall provide for the establishment of not more than 15 general groups and for the establishment of additional specialty groups as needed. However, no group shall contain fewer than five hospitals.

(b) Establish statistical indicators per adjusted admission to serve as measures of comparison based on the most recent audited actual experience filed pursuant to s. 407.05(7) for the hospitals in each group. The statistical indicators shall include, but not be limited to, gross revenue, net revenue, and operating expenditures.

(5) The board shall review each budget filed pursuant to subsection (3) and amendments filed pursuant to subsection (6) to determine whether the rate of increase contained in the budget or amendment is just, reasonable, and not excessive. In making such determination, the board shall consider and the hospital may use the following criteria in the following priority, with (a) the highest priority, and (l) the lowest priority:

(a) The ability of the hospital to earn a reasonable rate of return.

(b) The impact of patient days attributable to the medically indigent.

(c) The impact of patient days reimbursed by Medicaid.

(d) The impact of patient days reimbursed by Medicare.

(e) The cost and efficiency of providing the current level of services.

(f) The change in hospital costs as measured by changes in the severity of illness, including changes in the case mix.

(g) The actions taken by or the ability of a hospital to reduce the cost of services.

(h) The cost of providing new services or facilities regulated under s. 381.706. The cost of these services may not be included until these services or facilities have been approved by the designated state agency.

(i) The accuracy of previous budget submissions compared to the actual experience of the hospital.

(j) The research and educational services provided by the hospital if it is a teaching hospital.

(k) For psychiatric hospitals, the impact on hospital gross revenues associated with changes in the average length of stay of patients, changes in admissions to hospital units and changes in admissions to specific services and, when available, case mix.

(l) The expenses associated with the opening of a new hospital for the first 3 years, and the nonrecurring or time-limited expenses associated with a replacement hospital relocated to a different medical service area for the first 3 years.

(6) After a hospital budget is approved, approved as amended, or disapproved for a given fiscal year, no amendment to such budget shall be made, except in accordance with the following procedures:

(a) A request by a hospital to amend its budget shall be filed in writing with supporting documents no later than 90 days before the end of the hospital's fiscal year. The budget amendment shall be deemed approved unless it is disapproved or disapproved in part by the board within 120 days after such filing. Upon agreement by the board and the hospital, the 120-day period may be waived or extended.

(b) After a hospital requests a budget amendment, but before the final decision by the board on the amendment, the board may extend provisional approval to any part of the amendment. This provisional approval shall be superseded by the final decision of the board.

(c) If approved by the board as part of a budget amendment, the following items shall be applied retroactively for the entire budget year of the hospital:

1. Increased case mix, including increased severity of illness; and

2. Unforeseen and unforeseeable increases in malpractice insurance premiums, prior-year Medicare cost report settlements, and retroactive changes in Medicare reimbursement methodology.

(7) The board shall disapprove any budget or amendment or part thereof as excessive that contains a rate of increase which is not necessary to maintain total hospital costs at a level reasonably related to total services provided and which is not necessary to maintain a prudently managed hospital.

(8) The board shall disapprove, in its entirety or in part, any budget or any budget amendment that contains a rate of increase which the board finds, pursuant to subsection (5), to be unjust, unreasonable, or excessive.

(9)(a) Upon receipt of a budget or an amendment to a budget, the staff of the board shall review the budget and executive staff members designated by the board shall make preliminary findings and recommendations in writing as to whether the budget should be approved, disapproved, or disapproved in part. The staff shall send the preliminary findings by certified mail to the hospital. The hospital shall have 14 days from the receipt of the preliminary findings and recommendations to file written objections and request a hearing with the board if a hearing is desired; or to file written objections if a hearing is not requested by the hospital.

(b) If a hearing is requested, it shall be conducted by the board or, at the election of the board, by a hearing officer of the Division of Administrative Hearings of the Department of Administration, pursuant to the provisions of s. 120.57. The Division of Administrative Hearings shall assign at least two full-time hearing officers exclusively to hear matters pertaining to this part. Hearings shall be held within 30 days of filing the request, unless waived by the board and the hospital. All hearings shall be held in Tallahassee, unless the board determines otherwise.

(c) Recommended orders shall be issued within 30 days from the close of the hearing, unless waived by all parties.

(d) The failure of a hospital to request a hearing within 14 days of the receipt of the preliminary findings of the staff constitutes a waiver of the right of the hospital to contest the final decision of the board, and the board is authorized to enter a final order consistent with the staff's preliminary findings without further proceedings.

(e) During the pendency of any hearing or an appeal of a final order of the board, no hospital shall operate at a level of expenditures and revenues which exceeds the maximum allowable rate of increase minus 1 percentage point, unless a higher rate of increase has been approved by the board. However, a hospital with banked percentage points requesting a rate of increase which exceeds the maximum allowable rate of increase plus the banked percentage points shall not operate at a level of expenditures or revenues in excess of 1 percentage point below the maximum allowable rate of increase plus the banked percentage points.

(10) The board may publish its findings in connection with any review conducted under this section in the newspaper of the largest circulation in the county in which the hospital is located.

(11) Notwithstanding any other provisions of this part:

(a) Any hospital operated by the Department of Health and Rehabilitative Services or the Department of Corrections, any comprehensive rehabilitative hospital as defined in s. 407.002(7), any rural hospital as defined in s. 407.002(24), and the Florida Elks Children's Hospital located in Umatilla shall be exempt from filing a budget, shall be exempt from budget review and approval for exceeding the maximum allowable rate of increase, and shall be exempt from any penalties arising therefrom. However, each such hospital shall be required to submit to the board its audited actual experience, as required by s. 407.05(7).

(b) In addition, the board shall exempt any hospital from filing a budget, from budget review and approval for exceeding the maximum allowable rate of increase, and from any penalties arising therefrom, upon a finding of the board that the hospital, during the hospital's most recent audited actual experience, had a prospective payment system, as defined in s. 407.13(2), which contained all of the elements set forth in s. 407.13(4)(a)-(e) for at least 90 percent of the hospital's admissions, exclusive of Medicare, Medicaid, and any other patients which meet the board's definition for charity care. Such exemption shall be on a year-to-year basis, upon a finding by the board that the hospital has met the requirements of this subsection each year. Each hospital exempted from budget review pursuant to this paragraph shall submit to the board its audited actual experience, as required by s. 407.05(7). This paragraph is repealed, and shall be subject to review by the Legislature pursuant to s. 11.61, upon a finding by the board that at least 25 percent of hospitals which would have otherwise been subject to budget review are excluded from budget review pursuant to this paragraph. Such repeal shall take effect on July 1 following the date on which the board makes a finding that the 25-percent level, as set forth in this paragraph, has been reached.

(12) The review and approval of hospital budgets pursuant to this act shall apply to hospital budgets for fiscal years which begin on or after February 1, 1989. Notwithstanding any other provision in this act to the contrary, any budget or budget amendment for fiscal years beginning prior to February 1, 1989, shall be filed and reviewed pursuant to chapter 84-35, Laws of Florida, and rules adopted by the board pursuant thereto.

Section 25. Section 395.5094, Florida Statutes, is renumbered as section 407.51, Florida Statutes, and amended to read:

407.51 ~~395.5094~~ Exceeding approved budget or previous year's actual experience by more than maximum rate of increase; allowing or authorizing operating revenue or expenditures to exceed amount in approved budget; penalties.—

(1) The board shall annually compare the audited actual experience of each hospital to the audited actual experience of that hospital for the previous year.

(a) For hospitals submitting budget letters, if the board determines that the audited actual experience of a hospital exceeded its previous year's audited actual experience by more than the maximum allowable rate of increase *as certified in the budget letter, the amount of such excess shall be determined by the board and a penalty shall be levied against such hospital pursuant to subsection (2).*

(b) For hospitals subject to budget review, if the board determines that the audited actual experience of a hospital ~~or~~ exceeded *its previous year's audited actual experience by more than the most recent approved budget or the most recent approved budget as amended* ~~the projected budget as approved by the board, whichever is greater~~, the amount of such excess shall be determined by the board, and a penalty shall be levied against such hospital *pursuant to subsection (2).* ~~based thereon, as follows:~~

(c) For hospitals submitting a budget letter and for hospitals subject to budget review, the board shall annually compare each hospital's audited actual experience for net revenues per adjusted admission to the hospital's audited actual experience for net revenues per adjusted admission for the previous year. If the rate of increase in net revenues per adjusted admission between the previous year and the current year was less than the market basket index plus 2 percentage points, the hospital may carry forward the difference and earn up to a cumulative maximum of 3 banked net revenue percentage points. Such banked net revenue percentage points shall be available to the hospital to offset in any future-year penalties for exceeding the approved budget or the maximum allowable rate of increase as set forth in subsection (2). Nothing in this paragraph shall be used by a hospital to justify the approval of a budget or a budget amendment by the board in excess of the maximum allowable rate of increase pursuant to s. 407.50.

(2) Penalties shall be assessed as follows:

(a) For the first occurrence within a 5-year period, the board shall prospectively reduce the current budget of the hospital by the amount of the excess up to 5 percent; and, if such excess is greater than 5 percent over the maximum allowable rate of increase, any amount in excess of 5 percent shall be levied by the board as a fine against such hospital, to be deposited in the Public Medical Assistance Trust Fund, as created in s. 409.2662.

(b) For the second occurrence within the 5-year period following the first occurrence as set forth in paragraph (a), the board shall prospectively reduce the current budget of the hospital by the amount of the excess up to 2 percent; and, if such excess is greater than 2 percent over the maximum allowable rate of increase, any amount in excess of 2 percent shall be levied by the board as a fine against such hospital, to be deposited in the Public Medical Assistance Trust Fund.

(c) For the third occurrence within the 5-year period following the first occurrence as set forth in paragraph (a), the board shall:

1. Levy a fine against the hospital in the total amount of the excess, to be deposited in the Public Medical Assistance Trust Fund.

2. Notify the Department of Health and Rehabilitative Services of the violation, whereupon, the department shall not accept any application for a certificate of need pursuant to ss. *381.701-381.7155* ~~381.701-381.715~~ from or on behalf of such hospital until such time as the hospital has demonstrated, to the satisfaction of the board, that, following the date the penalty was imposed under subparagraph 1., the hospital has stayed within its projected *or amended* budget *or its applicable maximum allowable rate of increase* for a period of at least 1 year. However, this provision does not apply with respect to a certificate-of-need application filed to satisfy a life or safety code violation.

3. Upon a determination that the hospital knowingly and willfully generated such excess, notify the Department of Health and Rehabilitative Services, whereupon the department shall initiate disciplinary proceedings to deny, modify, suspend, or revoke the license of such hospital or impose an administrative fine on such hospital not to exceed $20,000.

The determination of the amount of any such excess shall be based upon net revenues per adjusted admission excluding funds distributed to the hospital pursuant to s. 409.266(7) or s. 409.2663. However, in making such determination, the board shall appropriately reduce the amount of the excess by the total amount of the assessment paid by such hospital pursuant to s. 395.101 minus the amount of revenues received by the hospital through the operation of s. 409.266(7) or s. 409.2663. It is the responsibility of the hospital to demonstrate, to the satisfaction of the board, its entitlement to such reduction. It is the intent of the Legislature that the *Health Care* ~~Hospital~~ Cost Containment Board, in levying any penalty imposed against a hospital for exceeding its *maximum allowable rate of increase or its* approved budget pursuant to this subsection, consider the effect of changes in the case mix of the hospital. It is the responsibility of the hospital to demonstrate, to the satisfaction of the board, any change in its case mix. *For psychiatric hospitals, the board shall also reduce the amount of excess by utilizing as a proxy for case mix the change in a hospital's audited actual average length of stay as compared to the previous year's audited actual average length of stay without any thresholds or limitations.*

(3) The following factors may be used by the board to reduce the amount of excess of the hospital as determined pursuant to this section:

(a) Unforeseen and unforeseeable events which affect the net revenue per adjusted admission and which are beyond the control of the hospital, such as prior-year Medicare cost report settlements, retroactive changes in Medicare reimbursement methodology, and increases in malpractice insurance premiums, which occurred in the last 3 months of the hospital fiscal year during which the hospital generated the excess; or

(b) Imposition of the penalty would have a severe adverse affect which would jeopardize the continued existence of an otherwise economically viable hospital.

(4)~~(2)~~ If the board finds that any hospital chief executive officer, or any person who is in charge of hospital administration or operations, has knowingly and willfully allowed or authorized actual operating revenues or expenditures that are in excess of projected operating revenues or expenditures in the *hospital's approved* ~~hospital~~ budget ~~as approved by the board~~, the board shall order such officer or person to pay an administrative fine not to exceed $5,000.

~~(3) The board may not reduce the budget of or levy a fine upon any hospital based on the hospital's audited actual experience for fiscal year 1986 if the hospital treated inmates from the Department of Corrections and if the hospital exceeded its previous year's audited actual experience by more than the maximum allowable rate of increase or exceeded its projected budget as approved by the board for fiscal year 1986 solely as a result of revenue paid to such hospital by the Department of Corrections for treatment of inmates.~~

Section 26. *Section 395.5125, Florida Statutes, is renumbered as section 407.52, Florida Statutes.*

Section 27. *Section 395.5135, Florida Statutes, is renumbered as section 407.53, Florida Statutes.*

Section 28. Section 395.5092, Florida Statutes, is renumbered as section 407.54, Florida Statutes, and amended to read:

407.54 ~~395.5092~~ Budget review proceedings; duty of Public Counsel.—Notwithstanding any other provisions of this *chapter* ~~part~~, it shall be the duty of the Public Counsel to represent the general public of the state in any proceeding before the board *or its advisory panels, in any administrative hearing conducted pursuant to the provisions of s. 120.57, or before any other state and federal agencies and courts, in any issue* related to budget review. With respect to any such proceeding, the Public Counsel is subject to the provisions of, and may utilize the powers granted to him by, ss. 350.061-350.0614.

Section 29. Section 395.52, Florida Statutes, is renumbered as section 407.70, Florida Statutes, and amended to read:

407.70 ~~395.52~~ Information relating to physician's charges.—

(1) The Health Care Cost Containment Board may, in its discretion, require the submission by hospitals of information relating to charges made by a physician with respect to hospital services. *However, any physician who provides services within a hospital is exempt from the provisions of this section if he bills his services independently of the hospital.*

(2) The board shall publish, based on information provided by insurers, an annual report containing available physician charge comparisons, profiles, and related information and shall disseminate the report in the manner provided in s. 407.09. Each health insurer regulated pursuant to parts VI and VII of chapter 627 shall annually submit to the board available information related to physician charges. In the event that a health insurer does not comply with the requirements of this section, the board shall report a health insurer's failure to comply to the Department of Insurance, which shall take into account the failure by the health insurer to comply in conjuction with its approval authority under s. 627.410. The board shall adopt any rules necessary to carry out its responsibilities required by this subsection.

Section 30. The board shall contract with the State University System for an 18-month study. Within the established time frame, the study shall determine the following:

(1) By February 1, 1990, a recommendation to the board for a Florida-specific measure of changes in hospital input prices, which shall include consideration of the need for regional-specific adjustments to reflect geographic differences between Florida hospitals. The Florida Hospital Input Price Index (FHIPI) shall consider and include, but not be limited to, the components of the National Hospital Input Price Index weighted for Florida-specific experience, as well as other expense components not currently included in the National Hospital Input Price Index. The study is directed to consider expense trends during the past 8 years, as well as unusual expense increases such as for nurses. By February 1, 1990, the contractor shall also recommend to the board a methodology and reporting system to measure the impact annually of changes in reimbursement methodologies and changes in reimbursement levels from all government payers and increases in uncompensated care, including bad debts. The board shall submit the results of these two parts of the study to the Legislature along with recommendations as to application by March 1, 1990.

(2) By February 1, 1990, a recommendation to the board as to a statistical measure or index for severity of illness. The board shall submit the results of this part of the study to the Legislature along with recommendations as to application by March 1, 1990.

(3) By February 1, 1990, a recommendation to the board for the development of a severity index for psychiatric hospitals. The board shall submit the results of this part of the study to the Legislature along with its recommendations as to application by March 1, 1990.

Section 31. (1) The Health Care Cost Containment Board shall conduct a special study of the shortage in the supply of registered nurses in, and the demand for registered nurses by, hospitals, nursing homes, and other providers of health care in Florida. The study shall include, but not necessarily confine itself to, the following issues:

(a) The extent of the shortage as it relates to different types of providers of health care and specialties of nursing care.

(b) The causes of the shortage, including, but not restricted to, the effects of considerations of salary, benefits, working conditions, and career development.

(c) The impact of the labor shortage on the availability, quality, and costs of services provided by hospitals, nursing homes, and other providers, such as physicians, home health agencies, and hospices.

(d) The impact of the labor shortage on the increased use of temporary nursing pool agencies by institutional providers; the influence of this trend on the availability, quality, and costs of services provided; and the costs and benefits of potential regulation of such nursing pool agencies in light of the shortage.

(e) Comparisons of the extent and effects of said shortage in Florida to similar features of the experiences of other states and of national trends.

(f) The need for and the feasibility of various measures to enhance the image of the nursing profession and the recruitment of individuals into the profession, including nurse recruitment centers, human services counseling efforts directed towards students at the junior and senior high school level, local educational outreach, and job placement programs.

(g) The implications of the shortage as it relates to the supply of and need for related paraprofessionals and other health care workers, such as licensed practical nurses, certified nurses' aides, and nursing assistants.

(h) The feasibility of allocating loans, grants, and scholarships for the purpose of providing greater incentive for and access to the study of nursing in Florida, and the probable effects of such efforts.

(i) The desirability of demonstration projects designed to test innovative and alternative models of nursing practice, roles, and responsibilities, and wage and benefit structures; and methods for the application of successful models for the purpose of addressing causes of the shortage.

(j) The need for promoting educational articulation efforts designed to facilitate the transition between different types of nursing education programs.

(2) The study of the shortage in the supply of registered nurses shall be conducted by the Health Care Cost Containment Board through the use of a special technical assistance panel convened for the purposes of this study. The panel shall reflect representation from each of the following groups:

(a) The nursing profession, including at least one representative from the temporary nursing pool industry.

(b) The hospital industry.

(c) The nursing home industry.

(d) Nursing education professionals representing, at a minimum, baccalaureate and associate degree programs.

(e) Other parties as deemed appropriate by the board.

Stipulation of the roles and responsibilities of the technical assistance panel in satisfying the provisions of this section, as well as the panel's exact composition, shall be at the discretion of the Health Care Cost Containment Board, subject to the foregoing.

(3) The Health Care Cost Containment Board shall complete an interim report detailing the progress of the study by March 15, 1989; shall complete the final report of the study, along with specific data-based conclusions and recommendations for alleviating the shortage of the supply of nurses in Florida, on or before February 1, 1990; and shall file copies of the interim and final reports with the Legislature and the Governor.

(4) Moneys shall be appropriated to the Health Care Cost Containment Board from the Health Care Cost Containment Trust Fund for the purpose of satisfying the provisions of this section. These funds may be used for the hiring of consultants or contracting with members of the State University System to conduct certain aspects of the study, at the discretion of the Health Care Cost Containment Board.

(5) This section shall take effect upon becoming a law.

Section 32. (1) The Health Care Cost Containment Board is directed to undertake a study of the impact on hospitals in Florida of providing health care services to migrant and rural farmworkers. Further, the board, in consultation with the Department of Health and Rehabilitative Services, the Office of Medicaid Services of the department, and the appropriations committees of the Senate and House of Representatives, shall recommend in the study methods of reimbursement for hospitals providing services, including obstetrical services, to migrant and rural farmworkers. This study shall be presented to the chairmen of the appropriations committees by January 31, 1989.

(2) This section shall take effect upon becoming a law.

Section 33. Notwithstanding section 24 of chapter 82-182, Laws of Florida, or section 30 of chapter 84-35, Laws of Florida, sections 395.501, 395.502, 395.5025, 395.503, 395.504, 395.505, 395.512, 395.507, 395.514, 395.508, 395.513, 395.5085, 395.511, 395.515, 395.509, 395.5094, 395.5125, 395.5135, and 395.5092, Florida Statutes, shall not stand repealed October 1, 1988, as scheduled by said acts, but said sections, as amended, transferred, and renumbered, are hereby revived and readopted.

Section 34. Sections 407.001, 407.002, 407.003, 407.01, 407.02, 407.025, 407.03, 407.035, 407.04, 407.05, 407.06, 407.07, 407.08, 407.09, 407.10, 407.11, 407.12, 407.13, 407.30, 407.31, 407.32, 407.33, 407.34, 407.50, 407.51, 407.52, 407.53, 407.54, and 407.70, Florida Statutes, are repealed October 1, 1992, and shall be reviewed by the Legislature prior to that date pursuant to s. 11.61, Florida Statutes.

Section 35. Subsection (3) of section 381.703, Florida Statutes, is amended to read:

381.703 Local and state health planning.—

(3) FUNDING.—

(a) The Legislature intends that the cost of local health councils and the Statewide Health Council be borne by application fees for certificates of need *and by assessments on health care facilities subject to facility licensure by the department, including abortion clinics, adult congregate living facilities, adult day care centers, ambulatory surgical centers, birthing centers, clinical laboratories, crisis stabilization units, home health agencies, hospices, hospitals, intermediate care facilities for the mentally retarded, nursing homes, and multiphasic testing centers.*

(b) A hospital licensed under chapter 395, a nursing home licensed under 400, and a home health agency licensed under chapter 400 shall be assessed an annual fee of $500. All other facilities listed in paragraph (a) shall each be assessed an annual fee of $150. Facilities operated by the Department of Health and Rehabilitative Services or the Department of Corrections are exempt from the fee required in this subsection.

(c) The department shall, by rule, establish a facility billing and collection process for the billing and collection of the health facility fees authorized by this subsection.

(d) A health facility which is assessed a fee under this subsection is subject to a fine of $100 per day for each day in which the facility is late in submitting its annual fee up to maximum of the annual fee owed by the facility. A facility which refuses to pay the fee or fine is subject to the forfeiture of its license.

(e)~~(b)~~ There is created in the State Treasury the Local *and State* Health Trust Fund. Moneys in the fund shall be appropriated only to the department for the purposes of this section.

(f)~~(c)~~ The department shall, on an ongoing basis, deposit 90 percent of all certificate-of-need application fees *and 100 percent of health care facilities assessments assessed pursuant to s. 381.703(3)* in the Local *and State* Health Trust Fund.

Section 36. Section 400.342, Florida Statutes, is hereby repealed.

Section 37. There is hereby appropriated, for fiscal year 1988-1989, the following sums:

(1) From the Health Care Cost Containment Board Trust Fund as set forth in s. 407.04, Florida Statutes, as amended by this act, to the Health Care Cost Containment Board:

(a) The sum of $121,300 to fund three additional positions necessary to perform the additional responsibilities placed on the Health Care Cost Containment Board as a result of this act.

(b) The sum of $88,000 to fund the study on the Florida-specific measure of changes in hospital prices and the severity of illness measure as provided for in section 30.

(c) The sum of $100,000 to fund the study of the shortage of registered nurses as provided for in section 31. Of this amount, $70,000 shall originate from assessments levied against hospitals and $30,000 shall originate from assessments levied against nursing homes.

(2) This section shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

Section 38. Legislative intent.—The Legislature finds that there is a lack of accurate, comparable, accessible, and current data on health care costs, health care utilization, health status, quality of care, and other health care concerns. The Legislature finds that without such information it is difficult to properly assess the health status of the state population, assess future resource needs, assess quality of care, determine the accessibility and affordability of health care, assess health practices, assess health-care-related policy issues, devise cost containment strategies, and make and evaluate policy choices. The Legislature finds that neither the public nor private purchasers of health care have sufficient data to enable them to make informed choices among health care providers and that consumers have insufficient information to make informed health care decisions. To remedy this problem, the Legislature finds that it is necessary to create a comprehensive health information system which provides a centralized, uniform health care data collection, analysis, and reporting system. It is the intent of the Legislature that the information compiled by the comprehensive health information system be made available to interested persons to improve the decision-making processes regarding the purchase, price, and use of appropriate health care services. It is the intent of the Legislature to require providers and other health-care-related entities to provide the information necessary to operate the comprehensive health information system.

Section 39. State Center for Health Statistics.—

(1) ESTABLISHMENT.—The department shall establish a State Center for Health Statistics. The center shall establish a comprehensive health information system to provide for the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of both purposefully collected and extant health-related data and statistics. The center shall be staffed with public health experts, biostatisticians, information system analysts, health policy experts, economists, and other staff necessary to carry out its functions.

(2) STATISTICS.—The comprehensive health information system operated by the State Center for Health Statistics shall collect data on:

(a) The extent and nature of illness and disability of the state population, including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality.

(b) The impact of illness and disability of the state state population on the state economy and on other aspects of the well-being of the people in this state.

(c) Environmental, social, and other health hazards.

(d) Health knowledge and practices of the people in this state and determinants of health and nutritional practices and status.

(e) Health resources, including physicians, dentists, nurses, and other health professionals, by specialty and type of practice and acute, long-term care, and other institutional care facility supplies and specific services provided by hospitals, nursing homes, home health agencies, and other health care facilities.

(f) Utilization of health care by type of provider.

(g) Health care costs and financing, including trends in health care prices and costs, the sources of payment for health care services, and federal, state, and local expenditures for health care.

(h) Family formation, growth, and dissolution.

(i) The extent of public and private health insurance coverage in this state.

(j) The quality of care provided by various health care providers.

(3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to produce comparable and uniform health information and statistics, the department shall perform the following functions:

(a) Coordinate the activities of state agencies involved in the design and implementation of the comprehensive health information system.

(b) Undertake research, development, and evaluation respecting the comprehensive health information system.

(c) Review the statistical activities of the department to assure that they are consistent with the comprehensive health information system.

(d) Develop written agreements with local, state, and federal agencies for the sharing of health-care-related data or using the facilities and services of such agencies. State agencies, local health councils, and other agencies under contract with the department shall assist the center in obtaining, compiling, and transferring health-care-related data maintained by state and local agencies. Written agreements must specify the types, methods, and periodicity of data exchanges and specify the types of data that will be transferred to the center.

(e) The department shall establish by rule the types of data collected, compiled, processed, used, or shared. Decisions regarding center data sets should be made based on consultation with the Comprehensive Health Information System Advisory Council and other public and private users regarding the types of data which should be collected and their uses.

(f) The center shall establish standardized means for collecting health information and statistics under laws and rules administered by the department.

(g) Establish minimum health-care-related data sets which are necessary on a continuing basis to fulfill the collection requirements of the center and which shall be used by state agencies in collecting and compiling health-care-related data. The department shall periodically review ongoing health care data collections of the department and other state agencies to determine if the collections are being conducted in accordance with the established minimum sets of data.

(h) Establish advisory standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis by local, state, and private organizations.

(i) Prescribe standards for the publication of health-care-related data reported pursuant to this section which ensure the reporting of accurate, valid, reliable, complete, and comparable data. Such standards should include advisory warnings to users of the data regarding the status and quality of any data reported by or available from the center.

(j) Prescribe standards for the maintenance and preservation of the center's data. This should include methods for archiving data, retrieval of archived data, and data editing and verification.

(k) Ensure that strict quality control measures are maintained for the dissemination of data through publications, studies, or user requests.

(4) TECHNICAL ASSISTANCE.—The center shall provide technical assistance to persons or organizations engaged in health planning activities in the effective use of statistics collected and complied by the center. The center shall also provide the following additional technical assistance services:

(a) Establish procedures identifying the circumstances under which, the places at which, the persons from whom, and the methods by which a person may secure data from the center, including procedures governing requests, the ordering of requests, time frames for handling requests, and other procedures necessary to facilitate the use of the center's data. To the extent possible, the center should provide current data timely in response to requests from public or private agencies.

(b) Provide assistance to data sources and users in the areas of data base design, survey design, sampling procedures, statistical interpretation, and data access to promote improved health-care-related data sets.

(c) Identify health care data gaps and seek cooperative agreements with other public or private organizations for meeting documented health care data needs.

(d) Assist other organizations in developing statistical abstracts of their data sets that could be used by the center.

(e) Provide statistical support to state agencies with regard to the use of data bases maintained by the center.

(f) To the extent possible, respond to multiple request for information not currently collected by the center or available from other sources by initiating data collection.

(g) Maintain detailed information on data maintained by other local, state, federal, and private agencies in order to advise those who use the center of potential sources of data which are requested but which are not available from the center.

(h) Respond to requests for data which are not available in published form by initiating special computer runs on data sets available to the center.

(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.—The center shall provide for the widespread dissemination of data which it collects and analyzes. The center shall have the following publication, reporting, and special study functions:

(a) The center shall publish and make available periodically to agencies and individuals health statistics publications of general interest, publications providing health statistics on topical health policy issues, publications which provide health status profiles of the people in this state, and other topical health statistics publications.

(b) The center shall publish, make available, and disseminate, promptly and as widely as practicable, the results of special health surveys, health care research, and health care evaluations conducted or supported under this section. Any publication by the center must include a statement of the limitations on the quality, accuracy, and completeness of the data.

(c) The center shall provide indexing, abstracting, translation, publication, and other services leading to a more effective and timely dissemination of health care statistics.

(d) The department shall prepare and furnish a status report on the establishment of the center by April 1, 1989, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include an inventory of health data available in this state, implementation plans and progress made in implementing the functions assigned to the center, and recommendations for further legislation or resources needed to fulfill legislative intent with regard to the center, particularly with regard to establishing a statewide comprehensive health information system. The center shall thereafter be responsible for publishing and disseminating an annual report on the center's activities.

(e) The center shall be responsible, to the extent resources are available, for conducting a variety of special studies and surveys to expand the health care information and statistics available for health policy analyses, particularly for the review of public policy issues. The center shall develop a process by which users of the center's data are periodically surveyed regarding critical data needs and the results of the survey considered in determining which special surveys or studies will be conducted. The center shall select problems in health care for research, policy analyses, or special data collections on the basis of their local, regional, or state importance, the unique potential for definitive research on the problem, and opportunities for application of the study findings.

(6) CONFIDENTIALITY.—

(a) The center shall protect the confidentiality of, and regulate the disclosure of, data and records maintained by the center when such records and data contain information of a sensitive personal nature concerning individuals, the release of which information would be defamatory or cause unwarranted damage to the good name or reputation of such individuals. Therefore, the center shall ensure that such data which is disclosed will not identify a person by name, address, number, symbol, or any other identifying information. The records of the center which contain the name, address, number, symbol, or other identifier of a person, shall not be subject to disclosure under chapter 119, Florida Statutes, unless otherwise provided by law.

(b) The center may permit authorized representatives of recognized organizations to have access to the records of the center in order to compile statistics for approved purposes and to make abstracts from official records, under the conditions regarding use and disposition of the statistics and abstracts deemed proper by the center.

(c) A violation of this subsection or rules adopted by the department under this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. Any employee of the department who is found guilty of violating this subsection or the rules adopted by the department under this subsection, is subject to immediate dismissal.

(d) This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14, Florida Statutes.

(7) PROVIDER DATA REPORTING.—This section does not confer on the department the power to demand or require that a health care provider or professional furnish information, records of interviews, written reports, statements, notes, memoranda, or data other than as expressly required by law.

(8) BUDGET; FEES; TRUST FUND.—

(a) The Legislature intends that funding for the State Center for Health Statistics be appropriated from the General Revenue Fund.

(b) The State Center for Health Statistics may apply for and receive and accept grants, gifts, and other payments, including property and services, from any governmental or other public or private entity or person and make arrangements as to the use of same, including the undertaking of special studies and other projects relating to health-care-related topics. Funds obtained pursuant to this paragraph may not be used to offset annual appropriations from the General Revenue Fund.

(c) The center may charge such reasonable fees for services as the department prescribes by rule. The established fees shall not exceed the reasonable cost for such services. Fees collected may not be used to offset annual appropriations from the General Revenue Fund.

(d) By July 1, 1991, each state agency which has a health care program and a health-care-related data program must establish an administrative overhead expense item in its biennial budget for the purpose of funding its use of the State Center for Health Statistics.

(e) The department shall establish a Comprehensive Health Information System Trust Fund as the repository of all funds appropriated to, and fees and grants collected for, services of the State Center for Health Statistics. Any funds, other than funds appropriated to the center from the General Revenue Fund, which are raised or collected by the department for the operation of the center and which are not needed to meet the expenses of the center for its current fiscal year shall be available to the board in succeeding years.

(9) STATE COMPREHENSIVE HEALTH INFORMATION SYSTEM ADVISORY COUNCIL.—

(a) There is established in the department the State Comprehensive Health Information System Advisory Council to assist the center in reviewing the comprehensive health information system and to recommend improvements for such system. The council shall consist of the following members:

1. An employee of the Executive Office of the Governor, to be appointed by the Governor.

2. An employee of the Department of Insurance, to be appointed by the Insurance Commissioner.

3. An employee of the Department of Education, to be appointed by the Commissioner of Education.

4. Ten persons, to be appointed by the Secretary of the Department of Health and Rehabilitative Services, representing other state and local agencies, state universities, the Florida Association of Business/Health Coalitions, local health councils, professional health-care-related associations, consumers, and purchasers.

(b) Each member of the council shall be appointed to serve for a term of 4 years from the date of his appointment, except that a vacancy shall be filled by appointment for the remainder of the term and except that:

1. Three of the members initially appointed by the Secretary of the Department of Health and Rehabilitative Services shall each be appointed for a term of 3 years.

2. Two of the members initially appointed by the Secretary of the Department of Health and Rehabilitative Services shall each be appointed for a term of 2 years.

3. Two of the members initially appointed by the Secretary of the Department of Health and Rehabilitative Services shall each be appointed for a term of 1 year.

(c) The council may meet at the call of its chairman, at the request of the department, or at the request of a majority of its membership, but at least quarterly.

(d) Members shall elect a chairman annually.

(e) A majority of the members constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take action.

(f) The council shall maintain minutes of each meeting and shall make such minutes available to any person.

(g) Members of the council shall served without compensation, but shall be entitled to receive reimbursement for per diem and traveling expenses as provided in s. 112.061, Florida Statutes.

(h) This subsection is repealed, and the State Comprehensive Health Information System Advisory Council is abolished, on October 1, 1998, and shall be reviewed by the Legislature prior to that date pursuant to s. 11.611, Florida Statutes.

Section 40. Except as otherwise provided herein, this act shall take effect October 1, 1988.

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to health care; creating chapter 407, F.S., relating to health care cost containment; renumbering ss. 395.5125 and 395.5135, F.S., and amending and renumbering ss. 395.501, 395.502, 395.5025, 395.503, 395.504, 395.5042, 395.505, 395.5051, 395.507, 395.508, 395.5085, 395.509, 395.5092, 395.5094, 395.511, 395.512, 395.513, 395.514, 395.515, and 395.52, F.S., formerly constituting part II of chapter 395, F.S.; changing short title; providing and changing definitions; providing legislative intent with respect to the Health Care Cost Containment Board, formerly the Hospital Cost Containment Board; revising administration, membership, and terms; modifying powers and duties; providing for effect of existing board rules; providing for submission of the board's final legislative budget request; requiring certain hospitals to submit budget information to the board; providing for additional research and analysis relating to health care costs; modifying contents of a report to the Legislature; revising provisions relating to consumer information; eliminating the Consumer Information Network; providing additional responsibilities of the Office of Technical Assistance; providing for quality assurance monitoring; revising provisions relating to review of hospital budgets; requiring hospitals not exceeding maximum allowable rate of increase to file a budget letter, rather than a detailed budget; allowing banking of percentage points for future use; providing review criteria and procedures; providing for budget amendments; providing for objections and hearing; providing exemptions for certain hospitals; providing a penalty; clarifying duty of the Public Counsel with respect to budget proceedings; providing an exemption for information relating to charges by certain physicians; requiring an annual report by health insurers relating to physician charges; requiring publication of specified information; conforming terminology; deleting obsolete language; creating s. 407.025, F.S.; providing immunity from liability for certain report or release of patient data; creating s. 407.10, F.S.; creating the consumer information and advisory council; amending and renumbering ss. 400.341, 400.343, 400.344, 400.345, and 400.346, F.S.; directing the board to make certain nursing home financial information available; correcting cross-references; conforming language; directing the board to contract with the State University System for certain studies; directing the board to conduct a study of the shortage of registered nurses in Florida; providing contents; providing for a technical assistance panel; requiring reports; providing for an appropriation; directing the board to undertake a study of the impact on and reimbursement for hospitals in providing services to migrant and rural farmworkers; providing for a report; amending s. 381.703, F.S.; providing for assessments on certain health care facilities to fund health councils; providing a fine for noncompliance; providing a penalty; repealing s. 400.342, F.S., which provides definitions relating to nursing homes; providing appropriations; establishing a state center for health statistics; providing for a comprehensive health information system; establishing center functions; providing for center technical assistance; providing for center publications, reports, and special studies; providing for data confidentiality; providing a penalty; limiting provider reporting; providing for center budget, fees, and trust fund; providing an appropriation; establishing a Comprehensive Health Information System Advisory Council; providing for appointments; providing for staggering of terms; providing for meetings; providing effective dates.

On motion by Senator Jennings, by two-thirds vote CS for HB 1673 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Barron

Reconsideration

On motion by Senator Beard, the Senate reconsidered the vote by which SB 281 as amended passed this day.

On motions by Senator Beard, by two-thirds vote HB 171 was withdrawn from the Committees on Natural Resources and Conservation; and Appropriations.

On motions by Senator Beard—

HB 171—A bill to be entitled An act relating to state parks and preserves; amending s. 258.391, F.S., relating to the Cockroach Bay Aquatic Preserve; providing for future lease extensions of portions owned by the Tampa Port Authority; revising boundaries; providing an effective date.

—a companion measure, was substituted for SB 281 and by two-thirds vote read the second time by title. On motion by Senator Beard, by two-thirds vote HB 171 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Scott
Childers, W. D.	Hill	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	Woodson

Nays—None

Consideration of **SB 994** and **CS for HB 1015** was deferred.

CS for CS for SB 16—A bill to be entitled An act relating to law enforcement communications; creating a joint task force and a trust fund within the Department of General Services to acquire and implement a statewide radio communications system to serve law enforcement units of state agencies and local law enforcement agencies through a mutual aid channel; providing for a pilot project; authorizing use of trust fund moneys for certain communications systems; providing duties of the Division of Communications of the department; providing an appropriation and providing for repayment; creating s. 320.0802, F.S., and amending s. 327.25, F.S.; imposing a surcharge on motor vehicle license taxes and vessel registration fees to fund the trust fund; amending s. 327.73, F.S.; relating to noncriminal infractions, to correct a cross-reference; providing an effective date.

—was read the second time by title.

Senators Langley and Thurman offered the following amendment which was moved by Senator Thurman and adopted:

Amendment 1—On page 5, line 29, after "s. 320.08" insert: , except those set forth in s. 320.08(11)

On motion by Senator McPherson, by two-thirds vote CS for CS for SB 16 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Brown	Grizzle	Lehtinen	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crenshaw	Hill	Margolis	Thomas
Deratany	Hollingsworth	McPherson	Thurman
Dudley	Jenne	Meek	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson
Gordon	Kirkpatrick	Plummer	
Grant	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Barron

CS for SB 213—A bill to be entitled An act relating to the Department of Corrections; requiring the Secretary of Corrections to notify the Governor when the inmate population reaches a certain amount; authorizing the secretary to grant provisional credits to specified inmates upon an acknowledgment by the Governor that the inmate population has reached such amount; requiring the department to establish a provisional release date for certain inmates based on provisional credits that have been granted; providing for the release of certain inmates into the provisional release supervision program prior to the expiration of sentence; providing for terms and conditions of conditional release supervision; authorizing the department to terminate provisional release supervision under certain circumstances; providing for rules; repealing s. 944.276, F.S., relating to administrative gain-time; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendment which was moved by Senator Woodson:

Amendment 1—On page 4, line 6, after "(7)." insert: An inmate released to provisional release supervision shall be contacted by a correctional probation officer within ten days after the inmate's release.

Senators Woodson and Hollingsworth offered the following substitute amendment which was moved by Senator Woodson and adopted:

Amendment 2—On page 4, line 21, after "Statutes." insert: The failure of an inmate to report to the designated parole and probation office within 10 days after his release from incarceration constitutes a violation of the provisional release supervision program and will result in issuance of a warrant for the arrest of the inmate.

On motion by Senator Woodson, by two-thirds vote CS for SB 213 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Lehtinen	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crenshaw	Hill	Margolis	Thomas
Deratany	Hollingsworth	McPherson	Thurman
Dudley	Jenne	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	Woodson

Nays—None

The hour of 4:00 p.m. having arrived, the Senate proceeded to consideration of—

LOCAL CALENDAR

SB 1381—A bill to be entitled An act relating to Pinellas County; amending s. 2.01, Art. II, Home Rule Charter for Pinellas County, as created by s. 1, ch. 80-590, Laws of Florida; granting to the Pinellas County Board of County Commissioners countywide land use planning authority; providing for a county ordinance adopted pursuant to such authority to prevail over a municipal ordinance in the event of a conflict; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote SB 1381 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

SB 1409—A bill to be entitled An act relating to Spring Lake Improvement District in Highlands County; amending s. 42, ch. 71-669, Laws of Florida, to provide an alternate method of levying, enforcing, and collecting special assessments authorized thereunder; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote SB 1409 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

SB 1419—A bill to be entitled An act relating to Pinellas County; amending chapter 73-594, Laws of Florida, as amended, relating to the Pinellas County Planning Council; providing definitions; revising the membership of the council; revising the terms of office of council members; providing for the appointment of council members; providing for meetings of the council; deleting provisions relating to the executive committee and attendance; revising the powers and duties of the council; providing requirements for the executive director of the council; providing for a Planners Advisory Committee; providing membership and duties of such committee; deleting provisions that have had their effect; revising the requirements for public hearings on proposals by the council; deleting requirements providing for the review of certain plans, codes, and regulations by units of local government; providing for the adoption of a countywide future land use plan and countywide comprehensive plan by the Pinellas County Board of County Commissioners upon approval by the voters of Pinellas County of a specified amendment to the county charter; providing for amendments to such plans; providing for administrative review of certain amendment recommendations by the council; providing for the council to adopt advisory recommendations relating to local government comprehensive plans if a specified amendment to the county charter is not approved by the voters of Pinellas County; providing for contractual services; creating a study committee to evaluate the impact of the revisions made by this act; providing for membership; requiring a report; providing for abolishment of the council and for legislative review of the council in advance thereof; providing an effective date.

—was read the second time by title.

Senator Malchon moved the following amendments which were adopted:

Amendment 1—On page 6, strike all of lines 8-21 and insert:

~~(i) One member shall be appointed by the Pinellas County Legislative Delegation. Said appointee, if not a member of the Pinellas County Legislative Delegation, shall be an elected official from a city having less than two planning council members and shall serve for a term of two years.~~

(j) One member shall be a representative of the Pinellas County School Board and shall be appointed by the school board. Said appointee shall serve for a term of two years.

~~(k) One member shall be a representative of the Pinellas County Health Department and shall be appointed by the director of the health department. Said appointee shall serve for a term of two years.~~

(k)~~(l)~~ One member shall be a representative of the *City*

Amendment 2—On page 4, line 17, strike "14" and insert: *13* ~~14~~

On motion by Senator Malchon, by two-thirds vote SB 1419 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

On motions by Senator Vogt, by two-thirds vote—

SB 1427—A bill to be entitled An act relating to Brevard County; amending section 7(1)(a) of chapter 87-423, Laws of Florida; providing for the additional court cost assessed by the circuit and county court against each person found guilty of a violation of a state criminal statute or municipal or county ordinance or traffic offense in Brevard County, to be used to fund the Brevard Police Testing and Certification Center at Brevard Community College; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

On motions by Senator Johnson, by two-thirds vote—

SB 1420—A bill to be entitled An act relating to Tri-Par Estates Park and Recreation District in Sarasota County; amending s. 23 of ch. 78-618, Laws of Florida, as amended; exempting certain purchases, leases, conveyances, or other acquisitions of real or tangible personal property from the restrictions imposed by said section; providing for the approval of certain acquisitions by a majority of those voting in a special referendum; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

On motions by Senator Johnson, by two-thirds vote—

SB 1421—A bill to be entitled An act relating to the Tri-Par Estates Park and Recreation District in Sarasota County; amending section 5 of chapter 78-618, Laws of Florida, as amended; changing qualifications for electors in the district; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

On motions by Senator Girardeau, by two-thirds vote—

SB 1423—A bill to be entitled An act relating to Nassau County Hospital Board; amending section 9(3), chapter 21228, Laws of Florida, 1941, as amended; providing for a joint budget hearing; providing for amendment of the hospital board's budget request; providing for a levy sufficient to meet the hospital board's needs up to a maximum of 1.2 mills; authorizing the board of county commissioners of Nassau County to decrease the certified amount requested by the Nassau General Hospital proportionally if necessary to avoid a total millage in excess of 10 mills; providing an effective date.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

On motions by Senator Langley, by two-thirds vote—

SB 1426—A bill to be entitled An act relating to the South Lake County Hospital District in Lake County; replacing the existing enabling legislation for the district with new provisions providing for the governance, jurisdiction, powers, franchises, and privileges of the district; revising provisions relating to members and officers of the South Lake County Hospital District Board of Trustees; expanding the powers of the district board of trustees; combining the maximum tax levy of 1 mill for operations and 1 mill for ambulance and hospital emergency room services into a total maximum tax levy of 2 mills for operations and ambulance and emergency room services; providing for levy of the taxes; exempting property of the district from assessments; eliminating advertising and bid requirements for construction, repairs, goods, and supplies and annual audit requirements; repealing ch. 69-1201, Laws of Florida, as amended, except for s. 14; repealing s. 14, ch. 69-1201, Laws of Florida, as amended, subject to referendum; providing severability; providing a referendum; providing effective dates.

—was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Brown	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	Margolis	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	
Gordon	Kirkpatrick	Ros-Lehtinen	
Grant	Kiser	Scott	

Nays—None

SPECIAL ORDER, continued

SB 994—A bill to be entitled An act relating to public buildings; amending ss. 235.26, 255.25, 284.01, F.S.; establishing state building code requirements for public educational facilities and other state-owned buildings; providing for coverage under the Florida Fire Insurance Trust Fund for manufactured homes owned by certain governmental agencies and entities; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote SB 994 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Ros-Lehtinen
Brown	Grizzle	Lehtinen	Scott
Childers, D.	Hair	Malchon	Stuart
Childers, W. D.	Hill	Margolis	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	
Gordon	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Woodson

Consideration of **CS for SB 359** was deferred.

CS for SB 585—A bill to be entitled An act relating to interception of wire, oral, and electronic communications; amending s. 934.02, F.S.; providing definitions relating to interception of wire, oral, and electronic communications; amending s. 934.03, F.S.; providing when interception and disclosure of such communications is allowed or prohibited and providing civil remedies and criminal penalties; amending s. 934.04, F.S.; providing when manufacture, distribution, or possession of such communications is allowed or prohibited and providing criminal penalties; amending s. 934.05, F.S.; providing for seizure and forfeiture of intercepting devices; amending s. 934.07, F.S.; providing for authorization of interception of communications; amending s. 934.08, F.S.; providing for authorization for disclosure of intercepted communications to the Department of Legal Affairs for use in certain investigations and legal proceedings; amending s. 934.09, F.S.; providing procedure for interception of communications; amending s. 934.10, F.S.; providing civil remedies; creating s. 934.21, F.S.; providing when access to stored communications is allowed or prohibited and providing criminal penalties; creating s. 934.22, F.S.; providing when disclosure of contents of communications is allowed or prohibited; creating s. 934.23, F.S.; providing requirements for governmental access to communications; creating s. 934.24, F.S.; providing for backup preservation of communications and for customer notification and customer challenges, including procedure therefor; providing definitions; providing immunity under certain circumstances; creating s. 934.25, F.S.; authorizing delayed notification in specified instances and providing criteria; providing definitions; creating s. 934.26, F.S.; providing for reimbursement of costs of interception; creating s. 934.27, F.S.; providing for civil actions and remedies; providing a defense to civil or criminal action; creating s. 934.28, F.S.; providing for exclusivity of remedies and sanctions; creating s. 934.31, F.S.; providing a general prohibition on pen register and trap and trace device use and providing an exception thereto; providing penalties; creating s. 934.32, F.S.; providing for application for an order for such device; creating s. 934.33, F.S.; providing for issuance of such an order; creating s. 934.34, F.S.; requiring assistance in installation and use of such device and providing for compensation; providing immunity from civil or criminal liability; providing a defense; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 12, line 14, strike the word *"permitted"* and insert: *prohibited*

On motion by Senator Johnson, by two-thirds vote CS for SB 585 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Beard	Grant	Kiser	Plummer
Brown	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Scott
Childers, W. D.	Hill	Malchon	Stuart
Deratany	Hollingsworth	Margolis	Thomas
Dudley	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson

Nays—None

CS for HB 1015—A bill to be entitled An act relating to physician assistants; amending s. 154.04, F.S., relating to duties of certain personnel of public health units; adding duties of certified physician assistants and certified osteopathic physician assistants; amending s. 395.011, F.S.; providing for clinical privileges for physician assistants and osteopathic physician assistants; amending ss. 458.347 and 459.022, F.S.; providing technical changes; authorizing reimbursement by third-party payers; authorizing grant of hospital privileges; providing certain certification requirements; providing for notification of board; providing for specified delegation of physician authority to assistant; amending s. 458.348, F.S.; providing for certain formal supervisory relationships; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote CS for HB 1015 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

CS for SB 359—A bill to be entitled An act relating to law enforcement and correctional officers; amending s. 110.123, F.S.; providing for the payment of certain premiums for state group health insurance with respect to the surviving spouse of a law enforcement or correctional officer killed in the line of duty; providing for the payment of premiums with respect to certain children; amending s. 112.1904, F.S.; providing an additional death benefit with respect to certain law enforcement officers killed in the line of duty; amending s. 112.193, F.S.; providing definitions; providing that employers may provide law enforcement officers with certain benefits upon retirement; providing an effective date.

—was read the second time by title.

Senator Weinstein moved the following amendment which was adopted:

Amendment 1—On page 1, line 19, strike everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (e) of subsection (4) of section 110.123, Florida Statutes, are amended to read:

110.123 State group insurance program.—

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE.—

(a) *Except as provided in paragraph (e) with respect to law enforcement and correctional officers,* legislative authorization through the appropriations act shall be required for payment by a state agency of any part of the premium cost of participation in any group insurance plan.

(e) No state contribution for the cost of any part of the premium shall be made for retirees or surviving spouses for any type of coverage under the state group insurance program. *However, any state agency which employs a law enforcement or correctional officer killed in the line of duty on or after July 1, 1980, shall pay the entire cost of the state*

employee's group health self-insurance plan for such employee's surviving spouse until remarried, and for each child of the employee until the end of the month in which such child's 19th birthday occurs. If any such child attends college, coverage shall be to the end of the month in which such child's 23rd birthday occurs or the award of a baccalaureate degree, whichever comes first.

Section 2. Paragraph (a) of subsection (2) of section 112.19, Florida Statutes, is amended, paragraphs (b), (c), and (d) of said subsection are redesignated as paragraphs (c), (d), and (e), respectively, and a new paragraph (b) is added to said subsection, to read:

112.19 Law enforcement officers; death benefits.—

(2)(a) The sum of $20,000 shall be paid as hereinafter provided when a law enforcement officer, while under 70 years of age and while engaged in the performance of any of the duties mentioned in paragraph (1)*(d)* ~~(c)~~, is killed or receives bodily injury which results in the loss of his life within 180 days after being received, regardless of whether he is killed or such bodily injury is inflicted upon him intentionally or accidentally, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Such payment shall be in addition to any workers' compensation or pension benefits and shall be exempt from the claims and demands of creditors of such law enforcement officer.

(b) If a state law enforcement officer or correctional officer is killed in the line of duty, the sum of $1,000 shall be paid, as provided for in paragraph (d), toward the funeral and burial expenses of such officer. Such benefits shall be in addition to any other benefits which employee beneficiaries and dependents are entitled to under the provisions of the Workers' Compensation Law or any other state or federal statutes.

Section 3. Section 112.193, Florida Statutes, is amended to read:

112.193 ~~State~~ Law enforcement officers retirement award.—

(1) For the purposes of this section:

(a) "Employer" means a state board, commission, department, division, bureau, or agency or a county or municipality.

(b) "Law enforcement officer" means any officer as defined in s. 943.10(1) and (2).

(2)~~(1)~~ Each *employer* ~~state agency~~ which employs law enforcement officers is authorized to present to each such employee who retires under any provision of a state, *county, or municipal* retirement system, including medical disability retirement, one complete uniform including the badge worn by him, the employee's service revolver, if one had been issued as part of the employee's equipment, and an identification card clearly marked "RETIRED."

(3)~~(2)~~ Upon the death of a law enforcement officer, the *employer* ~~employing agency~~ is authorized to present to the spouse or other beneficiary of the employee, upon request, one complete uniform, not including a service revolver.

(4)~~(3)~~ Each uniform and badge presented under this section is to commemorate prior service and shall be used only in such manner as the *employer* ~~employing agency~~ shall prescribe by rule.

Section 4. This act shall take effect upon becoming a law.

Senators Grant and Hollingsworth offered the following amendments which were moved by Senator Grant and adopted:

Amendment 2—On page 3, line 25, insert:

Section . Federal law enforcement officers; powers.—

(1) As used in this section, the term "federal law enforcement officer" means a person who is employed as a full-time law enforcement officer by the Federal Government, who is empowered to effect an arrest for violations of the United States Code, and who is authorized to carry firearms in the performance of his duties. The term "federal law enforcement officer" specifically applies to:

(a) United States Department of Justice, Drug Enforcement Administration special agents.

(b) United States Department of Justice, Federal Bureau of Investigation special agents.

(c) United States Department of the Treasury, United States Secret Service special agents.

(d) United States Department of Justice, Immigration and Naturalization Service immigration inspectors, investigators, and patrol officers.

(e) United States Marshals and United States Marshals Service deputies.

(f) Federal protective officers.

(g) United States Customs Service special agents, inspectors, criminal investigators, and patrol officers.

(h) United States Postal Service inspectors.

(i) United States Department of Interior special agents and park rangers.

(j) United States Department of Transportation special agents.

(k) United States General Services Administration special agents.

(l) United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms special agents.

(m) United States Department of the Treasury, Internal Revenue Service special agents and inspectors.

(n) United States Department of Justice, Bureau of Prisons officers.

(o) United States Department of Commerce special agents.

(p) United States Department of the Navy, Naval Investigative Service special agents.

(q) United States Department of State special agents.

(r) United States Department of Defense; Defense Investigative Service special agents.

(2) Every federal law enforcement officer has the following authority:

(a) To make a warrantless arrest of any person who has committed, in the presence of the officer, a felony or misdemeanor, as defined by state statute, which involved violence or which was committed while the officer was engaged in the exercise of his federal law enforcement duties. If the officer reasonably believes that a felony or misdemeanor, as defined by state statute, has been committed in his presence, he may make a warrantless arrest of any person whom he reasonably believes to have committed such felony or misdemeanor.

(b) To use any force, including deadly force, which he reasonably believes to be necessary to defend himself or another from bodily harm when making an arrest or preventing an escape, as provided in ss. 776.05, 776.06, and 776.07, Florida Statutes.

(c) To conduct a warrantless search incident to a lawful arrest, as provided in s. 901.21, Florida Statutes, and to conduct any other constitutionally permissible search pursuant to the officer's lawful duties.

(d) To possess firearms; and to seize weapons in order to protect himself from attack, prevent the escape of an arrested person, or assure the subsequent lawful custody of the fruits of a crime or the articles used in the commission of a crime, as provided in s. 901.21, Florida Statutes.

(Renumber subsequent sections.)

Amendment 3—On page 3, between lines 24 and 25, insert:

Section 4. All state-certified law enforcement officers shall have arrest powers.

(Renumber subsequent section.)

Amendment 4—On page 1, line 27, after the semicolon (;) insert: providing arrest powers for certain law enforcement officers;

Senator Weinstein moved the following amendment which was adopted:

Amendment 5—In title, on page 1, line 19, strike everything before the enacting clause and insert: A bill to be entitled An act relating to law enforcement officers retirement awards; amending s. 110.123, F.S., providing for the payment of certain premiums for state group health insurance with respect to the surviving spouse of a law enforcement or

correctional officer killed in the line of duty; providing for the payment of premiums with respect to certain children; amending s. 112.19, F.S., providing an additional death benefit with respect to certain law enforcement officers or correctional officers killed in the line of duty; amending s. 112.193, F.S.; providing definitions; providing that employers may provide law enforcement officers with certain benefits upon retirement; providing an effective date.

On motion by Senator Weinstein, by two-thirds vote CS for SB 359 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Barron

SB 1298—A bill to be entitled An act relating to fire prevention and control; amending s. 633.175, F.S.; providing that law enforcement officers shall have the authority to obtain fire loss information without prior approval of the Division of State Fire Marshal; providing an effective date.

—was read the second time by title. On motion by Senator Lehtinen, by two-thirds vote SB 1298 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Gordon	Kirkpatrick	Plummer
Brown	Grant	Kiser	Ros-Lehtinen
Childers, D.	Grizzle	Langley	Scott
Childers, W. D.	Hair	Lehtinen	Stuart
Crenshaw	Hill	Malchon	Thomas
Deratany	Hollingsworth	Margolis	Thurman
Dudley	Jenne	Meek	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson

Nays—None

HJR 1610—A joint resolution proposing amendments to Sections 10 and 11 of Article V of the State Constitution relating to terms of office for trial court judges.

—was read the second time.

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Langley and adopted:

Amendment 1—On page 2, lines 9-30, and on page 3, lines 1-12, strike all of said lines.

The vote was:

Yeas—18

Brown	Gordon	Meek	Thurman
Childers, W. D.	Hollingsworth	Peterson	Weinstein
Crenshaw	Kiser	Plummer	Weinstock
Frank	Malchon	Stuart	
Girardeau	Margolis	Thomas	

Nays—15

Beard	Hair	Kirkpatrick	Myers
Dudley	Hill	Langley	Ros-Lehtinen
Grant	Jennings	Lehtinen	Woodson
Grizzle	Johnson	McPherson	

The Committee on Judiciary-Civil recommended the following amendments which were moved by Senator Langley and adopted:

Amendment 2—On page 3, strike all of lines 18-22, and insert: Increases terms of county court judges from four to six years.

Amendment 3—On page 2, line 3, strike "*Except as provided in section 11 of this article,*"

Senator Langley moved the following amendment which was adopted:

Amendment 4—On page 1, strike lines 9 and 10 and insert: That the amendment to Section 10 of Article V of the State Constitution set forth below is agreed to and

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Langley and adopted:

Amendment 5—In title, on page 1, lines 2 and 3, strike "proposing amendments to Sections 10 and 11" and insert: proposing an amendment to Section 10.

On motion by Senator Langley, by two-thirds vote HJR 1610 as amended was read the third time.

On motion by Senator Kiser, by two-thirds vote the Senate reconsidered the vote by which HJR 1610 was read the third time.

Senator Kiser moved that the Senate reconsider the vote by which Amendment 1 was adopted. The motion failed.

On motion by Senator Langley, by two-thirds vote HJR 1610 as amended was read the third time in full as follows:

HJR 1610—A joint resolution proposing an amendment to Section 10 of Article V of the State Constitution relating to terms of office for trial court judges.

Be It Resolved by the Legislature of the State of Florida:

That the amendment to Section 10 Article V of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1988:

SECTION 10. Retention; election and terms.—

(a) Any justice of the supreme court or any judge of a district court of appeal may qualify for retention by a vote of the electors in the general election next preceding the expiration of his term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice of the supreme court or a judge of a district court of appeal so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) . . . (name of justice or judge) . . . of the . . . (name of the court) . . . be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years commencing on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b) Circuit judges and judges of county courts shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts. The terms of circuit judges shall be for six years. The terms of judges of county courts shall be for *six* ~~four~~ years.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

TERMS OF OFFICE FOR TRIAL COURT JUDGES

Increases terms of county court judges from four to six years.

— and as amended passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—35

Barron	Grant	Kiser	Ros-Lehtinen
Beard	Grizzle	Langley	Scott
Brown	Hair	Lehtinen	Stuart
Childers, D.	Hill	Margolis	Thomas
Childers, W. D.	Hollingsworth	McPherson	Thurman
Dudley	Jenne	Meek	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson
Gordon	Kirkpatrick	Plummer	

Nays—None

CS for CS for SB's 42 and 49—A bill to be entitled An act relating to negligence; amending s. 768.13, F.S.; providing an exemption from civil liability for licensed medical personnel working gratuitously in nonprofit medical facilities; providing an effective date.

—was read the second time by title.

Senator Girardeau moved the following amendment:

Amendment 1—On page 1, line 18, after the comma insert: *while performing screening services*

Further consideration of **CS for CS for SB's 42 and 49** was deferred.

SB 1203—A bill to be entitled An act relating to tax administration; amending s. 213.75, F.S.; providing for specifying application of tax payments; amending s. 108 of ch. 87-6, Laws of Florida, and s. 66 of ch. 87-101, Laws of Florida; providing for application of certain sections of such laws; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Deratany:

Amendment 1—On page 2, between lines 12 and 13, insert:

Section 4. Section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards by state agencies *and units of local government*.—

(1) A state agency, as defined in s. 216.011, may accept credit cards in payment for goods and services with the prior approval of the Treasurer.

(2) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards by state agencies, including, but not limited to, the following:

(a) Utilization of a standardized contract between the financial institution and the agency which shall be developed by the Treasurer or approval by the Treasurer of a substitute agreement.

(b)*1.* The types of revenue or collections that may be subject to service fees *or surcharges* by the financial institution. Taxes, license fees, tuition, and other statutorily prescribed revenues *may* ~~shall not~~ be subject to a service fee *or surcharge*.

2. The minimum public disclosure requirements to persons who elect to pay taxes, license fees, tuition, and other statutorily prescribed revenues by credit card which are subject to a surcharge pursuant to this section. Any state agency or unit of local government that surcharges a person who pays by credit card shall be subject to the minimum public disclosure requirements adopted by the Treasurer pursuant to this subparagraph.

(c) All service fees payable to financial institutions when practicable shall be invoiced and paid by state warrant in accordance with s. 215.422.

(d) Submission of information to the Treasurer concerning the acceptance of credit cards by all state agencies.

(3) The Treasurer is authorized to establish contracts with one or more financial institutions or credit card companies, in a manner consistent with chapter 287, for processing credit card collections for deposit into the State Treasury or another qualified public depository. Any state agency which accepts payment by credit card shall use at least one of the contractors established by the Treasurer unless the state agency obtains authorization from the Treasurer to use another contractor which is more financially advantageous to such state agency. Such contracts may authorize a unit of local government to use the services upon the same terms and conditions for deposit of credit card transactions into its qualified public depositories.

(4) A unit of local government is authorized to accept credit cards in payment of financial obligations which are owing to such unit of local government and to surcharge the person who uses a credit card in payment of taxes, license fees, tuition, or other statutorily prescribed revenues an amount sufficient to pay the service fee charges by the financial institution or credit card company for such services.

(5) Credit card account numbers in the possession of a state agency or unit of local government are confidential and exempt from the provisions of chapter 119. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Senator Gordon moved the following amendments to Amendment 1 which were adopted:

Amendment 1A—On page 1, line 28, after "institution" insert: vending service company or credit card company

Amendment 1B—On page 3, line 3, after "institution" insert: , vending service company

Senator Lehtinen moved the following amendments to Amendment 1 which were adopted:

Amendment 1C—On page 1, line 30, after the period (.) insert: *Notwithstanding the foregoing, this section shall not be construed to permit surcharges on any other credit card purchase in violation of s. 501.0117.*

Amendment 1D—On page 1, line 28, in front of "Taxes" insert: *Only*

Amendment 1 as amended was adopted.

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Deratany and failed:

Amendment 2—On page 2, line 14, after "later" insert: , but if it becomes a law after July 1, 1988, it shall operate retroactively to July 1, 1988

Senator Deratany moved the following amendments which were adopted:

Amendment 3—On page 1, lines 26-31, and on page 2, lines 1-14, strike all of said lines and insert:

Section 2. Effective July 1, 1988 and applicable to taxes which remain open to assessment on that date, paragraph (a) of subsection (3) of section 95.091, Florida Statutes, is amended to read:

95.091 Limitation on actions to collect taxes.—

(3)(a)*1.* With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011:

a.~~1.~~ Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

b.~~2.~~ Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

c.~~3.~~ At any time while the right to a refund or credit of the tax is available to the taxpayer;

d.~~4.~~ At any time after the taxpayer has ~~fraudulently~~ failed to make any *required* payment of the tax, has ~~fraudulently~~ failed to file a required return, or has filed a grossly false or fraudulent return; or

e.~~5.~~ In any case in which there has been *a* ~~an erroneous~~ refund of tax *erroneously made for any reason*, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

2. For the purpose of this paragraph, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day and payments made prior to the last day prescribed by law shall be deemed to have been paid on such last day.

Section 3. Paragraph (a) of subsection (9) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(9)(a) Notwithstanding other provisions of this section, the department shall, subject to paragraph (c) and to the safeguards and limitations of paragraphs (b) and (d), disclose to the governing body of the county or subcounty district levying a local option tax, or any state tax which is distributed to units of local government based upon place of collection, which the department is responsible for administering, names and addresses only of the taxpayers who reside within *or adjacent to* the taxing boundaries of such county or subcounty district when sufficient information is supplied by the county or subcounty district as the department by rule may prescribe.

Section 4. Section 213.35, Florida Statutes, is created to read:

213.35 Books and records.—Each person required by law to perform any act in the administration of any tax enumerated in s. 72.011 shall keep suitable books and records relating to that tax, such as invoices, bills of lading and other pertinent records and papers, and shall preserve such books and records until expiration of the time within which the department may make an assessment with respect to that tax pursuant to s 95.091(3).

Section 5. Section 206.12, Florida Statutes, is amended to read:

206.12 Retention of records.—Each person shall maintain and keep~~, for a period of 3 years,~~ such record of motor fuel received, used, transferred, sold, and delivered within this state by such person, together with invoices, bills of lading, and other pertinent records and papers, as may be required by the department for the reasonable administration of the motor fuel tax laws of this state, *and shall preserve such records as long as required by s. 213.35.*

Section 6. Section 207.008, Florida Statutes, is amended to read:

207.008 Retention of records by motor carrier.—Each registered motor carrier shall maintain and keep~~, for a period of 4 years,~~ pertinent records and papers as may be required by the department for the reasonable administration of this chapter, *and shall preserve such records as long as required by s. 213.35.*

Section 7. Paragraph (a) of subsection (3) of section 211.125, Florida Statutes, is amended to read:

211.125 Administration of law; books and records; powers of the department; refunds; enforcement provisions; confidentiality.—

(3)(a) Each person subject to the provisions of this part shall keep suitable books and records relating to the severance or production of taxable products in this state to enable the department to determine the amount of tax due under this part. Such books and records shall be preserved until the time within which the department may make an assessment with respect thereto has expired, *as provided in s. 213.35.*

Section 8. Subsection (3) of section 211.33, Florida Statutes, is amended to read:

211.33 Administration of the tax; returns; delinquency penalties and interest; departmental inspections of records.—

(3) Every producer shall keep and preserve *as long as required by s. 213.35* suitable records of production of solid minerals and such other books and documents as may be necessary to ensure compliance.

Section 9. Subsection (4) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s. 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of $5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than *the time within which the department may, as permitted by s. 95.091(3), make an assessment with respect to any admission evidenced by such records and accounts* ~~3 years~~, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for *that period* ~~a period of not less than 3 years~~. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property; and the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of 5 percent per month for a total amount of tax delinquent up to a total of 25 percent of such tax, and at the rate of 50-percent penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department.

Section 10. Paragraph (a) of subsection (6) and subsection (13) of section 212.12, Florida Statutes, are amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(6)(a) The department is given the power to prescribe the records to be kept by all persons subject to taxes imposed by this chapter; and it shall be the duty of every person required to make a report and pay any tax under this chapter, every person receiving rentals or license fees, and owners of places of admission, to keep and preserve suitable records of the sales, leases, rentals, license fees, admissions, or purchases, as the case may be, taxable under this chapter; such other books of account as may be necessary to determine the amount of the tax due hereunder; and other information as may be required by the department. It shall be the duty of every such person so charged with such duty, moreover, to keep and preserve *as long as required by s. 213.35* ~~for a period of 3 years~~ all invoices and other records of goods, wares, and merchandise, records of admissions, leases, license fees and rentals, and all other subjects of taxation under this chapter; and all such books, invoices, and other records shall be open to examination at all reasonable hours to the department or any of its duly authorized agents.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records *as long as required by s. 213.35* ~~for a period of not less than 3 years~~, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083 or s. 775.084, for the first offense; and for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 11. Subsections (2) and (4) of section 212.13, Florida Statutes, are amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep *as long as required by s. 213.35* ~~for a period of 3 years~~ a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) For the further purpose of enforcement of this chapter, every wholesaler of tangible personal property or services licensed within this state is required to permit the department to examine his books and records at all reasonable hours. He must also maintain such books and records *as long as required by s. 213.35* ~~for a period of not less than 3 years~~ in order to disclose the sales of all goods or services sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the department may reasonably require, and so as to permit the department to determine the volume of goods or services sold by wholesalers to dealers, as defined under this chapter, and the dates and amounts of sales made. The department may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section.

Section 12. Section 214.17, Florida Statutes, is amended to read:

214.17 ~~Access to~~ Books and records.—

(1) Each person required by law to administer any nonproperty tax to which this chapter is applicable shall keep suitable books and records relating to that tax and shall preserve such books and records as long as required by s. 213.35.

(2) All books, records, and other papers and documents which are required by applicable law to be kept shall be subject to inspection by the department or its duly authorized agents and employees at all times during business hours.

Section 13. Except as otherwise provided herein, this act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later, provided that if it becomes a law after July 1, 1988, it shall operate retroactively to said date.

Amendment 4—On page 2, between lines 12 and 13, insert:

Section 4. Effective upon becoming a law and operating retroactively to January 1, 1988, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, *as amended and* in effect on January 1, *1988* ~~1987~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, *1988* ~~1987~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 5. Effective upon becoming a law and operating retroactively to January 1, 1988, subsection (4) of section 220.11, Florida Statutes, is amended to read:

220.11 Tax imposed.—

(4) *In the case of a taxpayer to which s. 55 of the Internal Revenue Code is applied for the taxable year,* the amount of tax determined under this section shall be the greater of the tax determined under subsection (2) *without the application of s. 55 of the Internal Revenue Code* or *the tax determined under* subsection (3).

Section 6. Effective upon becoming a law and operating retroactively to January 1, 1988, subsection (1) of section 220.62, Florida Statutes, is amended to read:

220.62 Definitions.—For purposes of this part:

(1) The term "bank" means a bank holding company registered under the Bank Holding Company Act of 1956 of the United States, 12 U.S.C. ss. 1841-1849, as amended, or a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any state, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by state, territorial, or federal authority having supervision over banking institutions. The term "bank" also includes any banking association, corporation, or other similar organization organized and operated under the laws of any foreign country, which banking association, corporation, or other organization is also operating in this state pursuant to chapter 663, *and further includes any corporation organized under chapter 289.*

(Renumber subsequent sections.)

Senator Margolis moved the following amendment which was adopted:

Amendment 5—On page 1, line 11, insert:

Section 1. Section 201.24, Florida Statutes, is amended to read:

201.24 Obligations of municipalities, political subdivisions, and agencies of the state.—There shall be exempt from all taxes imposed by this chapter:

(1) Any obligation to pay money issued by a municipality, political subdivision, or agency of the state.

(2) Any assignment, transfer, or other disposition, or any document, which arises out of a lease or lease-purchase agreement entered pursuant to s. 235.056.

(Renumber subsequent sections.)

Senators Grizzle, Malchon and Kiser offered the following amendment which was moved by Senator Grizzle and adopted:

Amendment 6—On page 2, strike line 13 and insert:

Section 4. Subsection (3) of section 220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(3) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in annual tax credits for all approved community contributions. *However, a business firm may, for all approved community contributions that it makes after May 1, 1988, and before July 1, 1988, receive annual tax credits in an amount not to exceed the amount remaining available in that state fiscal year for grants by the department.*

(c) The total amount of tax credit which may be granted for all programs approved under this section and s. 624.5105 is $3,000,000 annually.

(d) All proposals for the granting of the tax credit shall require the prior approval of the secretary.

(e) If the credit granted pursuant to this section is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(9). *However, the maximum total credits that may be allowed for a single contribution may not exceed $1.2 million.*

Section 5. This section and the amendment to subsection (3) of section 220.183, Florida Statutes, made by this act shall take effect upon becoming a law. The rest of this act shall take effect July 1, 1988, or

Senator Langley moved the following amendment which was adopted:

Amendment 7—On page 2, between lines 12 and 13, insert:

Section 4. Paragraph (a) of subsection (3) of section 212.054, F.S., is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a) The dealer is located in the county, *delivery is made to a location within the county* and the sale includes tangible personal property, except as otherwise provided herein; provided, that the sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property;

Senators Grizzle, Malchon and Kiser offered the following amendment which was moved by Senator Grizzle and adopted:

Amendment 8—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 220.183, F.S.; increasing the maximum community contribution tax credit against corporate income taxes that a business firm may receive for approved community contributions made during a specified period;

Senator Margolis moved the following amendment which was adopted:

Amendment 9—In title, on page 1, line 2, strike "tax administration;" and insert: taxation; amending s. 201.24, F.S.; exempting certain documents arising out of the lease or lease-purchase of educational facilities and sites from the excise tax on documents;

Senator Deratany moved the following amendments which were adopted:

Amendment 10—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 220.03, F.S.; revising the definition of "Internal Revenue Code" under the Florida Income Tax Code; amending s. 220.11, F.S.; revising provisions relating to determination of tax applicable to certain taxpayers; amending s. 220.62, F.S.; revising the definition of "bank" under said code;

Amendment 11—In title, on page 1, strike all of lines 4-8 and insert: application of tax payments; amending s. 95.091, F.S.; revising provisions which specify time periods within which the Department of Revenue may determine and assess taxes, penalties, and interest; amending s. 213.053, F.S.; revising provisions which authorize the department to disclose certain information to certain county or subcounty district governing bodies; creating s. 213.35, F.S.; specifying that persons required by law to perform any act in administration of certain taxes shall keep books and records until the expiration of the time within which the department may make an assessment with respect thereto; amending ss. 206.12, 207.008, 211.125, 211.33, 212.04, 212.12, 212.13, and 214.17, F.S.; providing that records shall be preserved as required by s. 213.35, F.S., with respect to the following taxes: taxes on fuels and other pollutants; tax on operation of commercial motor vehicles; taxes on production of oil and gas and severance of solid minerals; tax on sales, use and other transactions, including admissions and rentals and license fees; and designated nonproperty taxes; providing an effective date.

Senator Langley moved the following amendment which was adopted:

Amendment 12—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 212.054, F.S.; providing additional criteria for determining the location of a local option sales transaction;

On motion by Senator Deratany, by two-thirds vote SB 1203 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crenshaw	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jennings	Meek	Weinstock
Frank	Johnson	Myers	Woodson
Girardeau	Kirkpatrick	Peterson	

Nays—None

Vote after roll call:

Yea—Jenne

On motions by Senator Meek, by two-thirds vote HB 1454 was withdrawn from the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

On motions by Senator Meek, by two-thirds vote—

HB 1454—A bill to be entitled An act relating to housing; amending s. 212.235, F.S.; adding the financing of affordable housing to the list of purposes for which infrastructure funds may be expended; creating part I of chapter 420, F.S.; the "State Housing Incentive Partnership Act of 1988"; providing legislative findings; providing policy and purpose; providing definitions; creating the State Housing Trust Fund; amending s. 380.0666, F.S.; correcting a reference; amending s. 420.502, F.S.; providing additional legislative findings under the Florida Housing Finance Agency Act; amending s. 420.503, F.S.; providing definitions; amending s. 420.504, F.S.; revising membership of the Florida Housing Finance Agency; amending s. 420.507, F.S.; providing additional powers of the Florida Housing Finance Agency; creating s. 420.5087, F.S.; creating the State Apartment Incentive Loan Program; providing requirements and procedures for loans; creating the State Apartment Incentive Loan Trust Fund; providing for foreclosure upon default; providing for acquisition and sale of property; creating s. 420.5088, F.S.; creating the Florida Homeownership Assistance Program; providing requirements for loans; creating the Florida Homeownership Assistance Trust Fund; amending s. 420.511, F.S.; providing additional requirements for the annual report of the agency; amending s. 420.604, F.S.; deleting a provision that the Florida Affordable Housing Demonstration Program be a 2"year pilot program; providing an additional criterion for inclusion of demonstration areas in the demonstration project; amending s. 420.605, F.S.; providing loan preference to community development corporations and community"based organizations; establishing a pilot program for housing cooperatives; creating ss. 420.303"420.33, F.S., the Housing Predevelopment Assistance Act; providing legislative findings and purpose; providing definitions; establishing the Housing Predevelopment Trust Fund; authorizing loans and grants and specifying eligible activities; providing for repayment of loans; providing for security; providing application procedure; providing for rules and annual reports; providing for foreclosure or other action upon default; providing for acquisition and sale of property; providing for disposition of undeveloped land; providing applicability; amending s. 420.608, F.S.; expanding the inventory of publicly owned lands and buildings established for the purpose of identifying lands and buildings suitable for housing; providing duties of the Department of Community Affairs; amending s. 420.609, F.S.; revising membership of the Affordable Housing Study Commission; extending the commission and revising its duties; creating s. 420.4255, F.S.; creating a Neighborhood Housing Services Grant Fund; creating s. 410.504, F.S.; providing for responsibilities of the Board of Regents regarding establishment of multidisciplinary centers on elderly living environments; requiring annual reports; creating part IX of chapter 420, F.S.; creating the "Maintenance of Housing for the Elderly Act of 1988"; providing legislative findings; providing intent; providing definitions; creating the Maintenance of Housing for the Elderly Trust Fund; creating the Maintenance of Housing for the Elderly Program; providing for loans; providing powers and duties of the department; amending s. 420.606, F.S.; providing a Training and Technical Assistance Program; establishing the Multidisciplinary Center for Affordable Housing; transferring s. 420.011, F.S., to part II of chapter 420, F.S., and renumbering as s. 420.102, F.S.; providing legislative findings; providing purpose; providing definitions; creating the

Pocket of Poverty Trust Fund; providing for the pocket of poverty program in the community of Immokalee; providing legislative findings and intent, program creation and administration, pilot community description, local comprehensive farmworker housing plan, review of plans, application procedure, and accountability; providing for the future review and repeal of s. 420.609, F.S., relating to the Affordable Housing Study Commission; amending s. 36 of ch. 86-192, Laws of Florida, to change the date of the future review and repeal of s. 31 of such act, relating to an advisory group on housing for the elderly; repealing s. 34 of Chapter 86-192, Laws of Florida, to delete reference to the multi-disciplinary center on elderly living environments; repealing s. 20.18(5), F.S., relating to the Florida Housing Advisory Council; repealing ss. 420.001 and 420.005, F.S., relating to the Florida Housing Act of 1972; repealing ss. 420.40-420.417, F.S., relating to the "Farmworker Housing Assistance Act"; repealing s. 420.607, F.S., relating to the community-based organization loan program; repealing ss. 420.701-420.713, F.S., relating to the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986"; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 1221 and by two-thirds vote read the second time by title.

Senator Meek moved the following amendment which was adopted:

Amendment 1—On page 66, between lines 7 and 8, insert:

Section 27. Subsection (3) of section 290.036, Florida Statutes, is amended to read:

290.036 Community development corporation support program.—

(3) After July 1, 1984, in no case shall a community development corporation be awarded more than one administrative grant per year for up to a total of *6* ~~5~~ years; however, if an administrative grant is received by a community development corporation in a year for which the Legislature does not appropriate funds for loans under this act, that year shall not be counted for purposes of this *6-year* ~~5-year~~ limitation. The amount of any administrative grant to a community development corporation in any one year shall be any amount up to $100,000. The department may fund up to 18 community development corporations each year, as provided for in the General Appropriations Act.

(Renumber subsequent sections.)

On motion by Senator Meek, the Senate reconsidered the vote by which **Amendment 1** was adopted.

By permission, **Amendment 1** was withdrawn.

Further consideration of **HB 1454** was deferred.

Motion

On motion by Senator Langley, the rules were waived and time of recess was extended until final action on HB 1454.

Reconsideration

On motion by Senator Scott, the Senate reconsidered the vote by which—

SB 1203—A bill to be entitled An act relating to tax administration; amending s. 213.75, F.S.; providing for specifying application of tax payments; amending s. 108 of ch. 87-6, Laws of Florida, and s. 66 of ch. 87-101, Laws of Florida; providing for application of certain sections of such laws; providing an effective date.

—passed this day.

Further consideration of **SB 1203** as amended was deferred.

On motion by Senator Lehtinen, the Senate reconsidered the vote by which—

SB 1298—A bill to be entitled An act relating to fire prevention and control; amending s. 633.175, F.S.; providing that law enforcement officers shall have the authority to obtain fire loss information without prior approval of the division of State Fire Marhsal; providing an effective date.

—passed this day.

Further consideration of **SB 1298** was deferred.

On motion by Senator Scott, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Scott, by two-thirds vote House Bills 1432, 1471, SB 140, CS for SB 157, CS for CS for SB 295, Senate Bills 323, 382, CS for SB 468, CS for CS for SB 526, SB 643, CS for SB 685, SJR 728, Senate Bills 753, 758, CS for SB 841, Senate Bills 861, 888, CS for SB 906, CS for SB 918, Senate Bills 919, 923, CS for SB 926, Senate Bills 978, 999, 1000, CS for SB 1007, SB 1039, CS for SB 1092 and CS for SB 1134 were withdrawn from the Committee on Appropriations.

On motions by Senator Langley, by two-thirds vote HB 1683 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Appropriations and by two-thirds vote placed first on the special order calendar for May 31.

On motion by Senator Peterson, by two-thirds vote SB 1085 was withdrawn from the Committee on Education.

On motion by Senator Kiser, by two-thirds vote CS for SB 1350 was withdrawn from the Committee on Governmental Operations.

On motions by Senator Langley, by two-thirds vote CS for CS for SB 1056 was placed on the special order calendar for May 31.

On motions by Senator Deratany, by two-thirds vote CS for SB 742 and SB 1042 were withdrawn from the Committee on Finance, Taxation and Claims.

SPECIAL ORDER, continued

The Senate resumed consideration of—

HB 1454—A bill to be entitled An act relating to housing; amending s. 212.235, F.S.; adding the financing of affordable housing to the list of purposes for which infrastructure funds may be expended; creating part I of chapter 420, F.S.; the "State Housing Incentive Partnership Act of 1988"; providing legislative findings; providing policy and purpose; providing definitions; creating the State Housing Trust Fund; amending s. 380.0666, F.S.; correcting a reference; amending s. 420.502, F.S.; providing additional legislative findings under the Florida Housing Finance Agency Act; amending s. 420.503, F.S.; providing definitions; amending s. 420.504, F.S.; revising membership of the Florida Housing Finance Agency; amending s. 420.507, F.S.; providing additional powers of the Florida Housing Finance Agency; creating s. 420.5087, F.S.; creating the State Apartment Incentive Loan Program; providing requirements and procedures for loans; creating the State Apartment Incentive Loan Trust Fund; providing for foreclosure upon default; providing for acquisition and sale of property; creating s. 420.5088, F.S.; creating the Florida Homeownership Assistance Program; providing requirements for loans; creating the Florida Homeownership Assistance Trust Fund; amending s. 420.511, F.S.; providing additional requirements for the annual report of the agency; amending s. 420.604, F.S.; deleting a provision that the Florida Affordable Housing Demonstration Program be a 2-year pilot program; providing an additional criterion for inclusion of demonstration areas in the demonstration project; amending s. 420.605, F.S.; providing loan preference to community development corporations and community-based organizations; establishing a pilot program for housing cooperatives; creating ss. 420.303-420.33, F.S., the Housing Predevelopment Assistance Act; providing legislative findings and purpose; providing definitions; establishing the Housing Predevelopment Trust Fund; authorizing loans and grants and specifying eligible activities; providing for repayment of loans; providing for security; providing application procedure; providing for rules and annual reports; providing for foreclosure or other action upon default; providing for acquisition and sale of property; providing for disposition of undeveloped land; providing applicability; amending s. 420.608, F.S.; expanding the inventory of publicly owned lands and buildings established for the purpose of identifying lands and buildings suitable for housing; providing duties of the Department of Community Affairs; amending s. 420.609, F.S.; revising membership of the Affordable Housing Study Commission; extending the commission and revising its duties; creating s. 420.4255, F.S.; creating a Neighborhood Housing Services Grant Fund; creating s. 410.504, F.S.; providing for responsibilities of the Board of Regents regarding establishment of multidisciplinary centers on elderly living environments; requiring annual reports; creating part IX of chapter 420, F.S.; creating the "Maintenance of Housing for the Elderly Act of 1988"; providing legislative findings; providing intent; providing definitions; creating the Maintenance of

Housing for the Elderly Trust Fund; creating the Maintenance of Housing for the Elderly Program; providing for loans; providing powers and duties of the department; amending s. 420.606, F.S.; providing a Training and Technical Assistance Program; establishing the Multidisciplinary Center for Affordable Housing; transferring s. 420.011, F.S., to part II of chapter 420, F.S., and renumbering as s. 420.102, F.S.; providing legislative findings; providing purpose; providing definitions; creating the Pocket of Poverty Trust Fund; providing for the pocket of poverty program in the community of Immokalee; providing legislative findings and intent, program creation and administration, pilot community description, local comprehensive farmworker housing plan, review of plans, application procedure, and accountability; providing for the future review and repeal of s. 420.609, F.S., relating to the Affordable Housing Study Commission; amending s. 36 of ch. 86-192, Laws of Florida, to change the date of the future review and repeal of s. 31 of such act, relating to an advisory group on housing for the elderly; repealing s. 34 of Chapter 86-192, Laws of Florida, to delete reference to the multi-disciplinary center on elderly living environments; repealing s. 20.18(5), F.S., relating to the Florida Housing Advisory Council; repealing ss. 420.001 and 420.005, F.S., relating to the Florida Housing Act of 1972; repealing ss. 420.40-420.417, F.S., relating to the "Farmworker Housing Assistance Act"; repealing s. 420.607, F.S., relating to the community-based organization loan program; repealing ss. 420.701-420.713, F.S., relating to the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986"; providing an effective date.

Senator Meek moved the following amendment which was adopted:

Amendment 2—On page 66, between lines 7 and 8, insert:

Section 27. Subsection (2) of section 290.046, Florida Statutes, is amended to read:

290.046 Applications for grants; procedures; requirements.—

(2)(a) *Except as provided in paragraph (c),* each eligible local government may submit an application for a grant under either the housing program category or the neighborhood revitalization program category during each annual funding cycle.

(b) *Except as provided in paragraph (c),* each eligible local government may apply up to three times in any one annual funding cycle for a grant under the economic development program category but shall receive no more than one such grant per annual funding cycle. Applications for grants under the economic development program category may be submitted at any time during the annual funding cycle, and such grants shall be awarded no less frequently than three times per funding cycle. The department shall establish minimum criteria pertaining to the number of jobs created for persons of low or moderate income, the degree of private-sector financial commitment, and the economic feasibility of the proposed project and shall establish any other criteria the department deems appropriate. Assistance to a private, for-profit business may not be provided from a grant award unless sufficient evidence exists to demonstrate that without such public assistance the creation or retention of such jobs would not occur.

(c) Beginning with grant contracts entered into after June 30, 1988, a local government that receives a grant under any Florida Small Cities Community Development Block Grant Program category for one federal fiscal year shall be ineligible for community development block grant funding in any and all program categories the following federal fiscal year.

(d) Beginning October 1, 1988, the department shall award no grant until the department has determined, based upon a site visit, that the proposed area matches and adheres to the written description contained within the applicant's request. If, based upon a site visit, the department determines that any information provided in the application that affects scoring has been intentionally misrepresented by the applicant, the applicant's request shall be rejected by the department pursuant to s. 290.0475(2).

Section 28. Subsection (3) of section 290.047, Florida Statutes, is amended, and subsections (4), (5), and (6) are added to said section, to read:

290.047 Establishment of grant ceilings and maximum administrative cost percentages; elimination of population bias.—

(3) *Except as provided in subsection (4),* the maximum percentage of block grant funds that can be spent on administrative costs by *an eligible local government* ~~grantees~~ shall be *15* ~~20~~ percent for the housing program category, *8* ~~11~~ percent for both the neighborhood and the commercial revitalization program categories, and *8* ~~10~~ percent for the economic development program category. The purpose of the ceiling is to maximize the amount of block grant funds actually going toward the redevelopment of the target area. The department will continue to encourage *eligible local governments* ~~grantees~~ to consider ways to limit the amount of block grant funds used for administrative costs, consistent with the need for prudent management and accountability in the use of public funds. This subsection shall not be construed, however, to prohibit *eligible local governments* ~~grantees~~ from contributing their own funds or making in-kind contributions to cover administrative costs which exceed the prescribed ceilings, provided that all such contributions come from local government resources other than Community Development Block Grant funds.

(4) The department shall develop by rule a formula to decrease the percentage of funds used for administrative costs when an eligible local government contracts with an individual, business, or governmental entity for block grant administration or when an eligible local government administers more than one community development block grant. This formula shall consider the type, number, and geographic distribution of community development block grants to be administered by the individual, business, or governmental entity for each annual funding cycle. The formula shall encourage economies of scale by reducing the maximum percentages established in subsection (3) by up to 5 percent in the housing category and by up to 3 percent in the other categories whenever multiple grants are administered by the same individual, business, or governmental entity.

(5) The department shall develop by rule grant administration procurement procedures for eligible local governments. These procedures shall include, but not be limited to, the evaluation of an individual or business entity based upon past performance in the administration of community development block grants and based upon the type, number, and geographic distribution of grants to be administered.

(6) An eligible local government shall not contract with the same individual or business entity for more than one service to be performed in connection with a community development block grant, including, but not limited to, application preparation services, administration services, architectural services, engineering services, and construction services, unless it can be demonstrated by the eligible local government that such individual or business entity either is the sole source of the service or is the responsive bidder whose proposal is determined in writing, as a result of a competitive process, to be the most advantageous to the local government.

Section 29. Section 290.0475, Florida Statutes, is amended to read:

290.0475 Rejection of grant applications; penalties for failure to meet application conditions *and for misrepresentation of information.*—

(1) Applications received for funding under all program categories shall be rejected without scoring only in the event that any of the following circumstances arise:

(a)~~(1)~~ The application is not received by the department by the application deadline as stated in the administrative rule and application manuals;

(b)~~(2)~~ The proposed project does not meet one of the three national objectives as contained in federal and state legislation; or

(c)~~(3)~~ The proposed project is not an eligible activity as contained in the federal legislation.

(2) The department shall disqualify an application if it finds in a hearing pursuant to s. 120.57 that scoring information has been misrepresented by the applicant.

Section 30. Subsections (5) and (6) are added to section 290.048, Florida Statutes, to read:

290.048 General powers of Department of Community Affairs under ss. 290.0401-290.049.—The department has all the powers necessary or appropriate to carry out the purposes and provisions of the program, including the power to:

(5) Adopt and enforce strict requirements concerning an applicant's written description of a target area. Each such description shall contain

maps which illustrate the location of the proposed target area. All such maps must be clearly legible and must:

(a) Contain a scale which is clearly marked on the map.

(b) Show the boundaries of the locality.

(c) Show the boundaries of the target area where the activities will be concentrated.

(d) Display the location of all proposed area activities.

(e) Include the names of streets, route numbers, or easily identifiable landmarks where all target activities are located.

(6) Allow local governments to utilize up to 10 percent of grant awards outside of target areas when rehabilitation and/or demolition and subsequent relocation is required for any substandard structures located outside of target areas, if:

(a) These structures are occupied by persons of low income and persons of moderate income; and

(b) Demolition and subsequent relocation occur only when rehabilitation is not economically feasible.

(Renumber subsequent sections.)

Senator Meek moved the following amendment:

Amendment 3—On page 66, between lines 17 and 18, insert:

Section 29. Section 3 of chapter 83-220, Laws of Florida, as amended by chapter 84-270, Laws of Florida, is amended to read:

Section 3. Sections 1 and 2 of chapter 83-220, Laws of Florida, as amended by this act, are repealed effective October, *2010* ~~1993~~.

(Renumber subsequent sections.)

Further consideration of **HB 1454** as amended was deferred.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed SB 18, CS for SB 93, Senate Bills 357, 396, CS for SB 549, Senate Bills 574, 576, 590, CS for SB 618, Senate Bills 626, 687, CS for SB 901, Senate Bills 991, 1028, 1064, CS for SB 1084; and has passed by the required Constitutional three-fifths vote of the membership of the House CS for SJR's 318 and 356.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ENROLLING REPORTS

Senate Bills 26, 101, 374, 378, 493, 514, 652, 836, 878, 995, 1177, 1189, 1231, CS for CS for SB 292, CS for SB 344, CS for SB 400, CS for SB 458, CS for SB 990, and CS for SB 1140 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 30, 1988.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 26 was corrected and approved as follows:

Page 449, column 1, line 15 from bottom, before "Thomas" insert: Stuart,

CO-INTRODUCERS

Senator Vogt—CS for CS for SB 45; Senator Johnson—SB 188; Senator Grizzle—CS for SB 897; Senator Brown—CS for CS for SB 1056

RECESS

On motion by Senator Barron, the Senate recessed at 5:12 p.m. to reconvene at 10:00 a.m., Tuesday, May 31.

SENATE PAGES

May 30-June 3

Kim Bonner, Coral Springs; Juliet Antonia Carney, Tallahassee; Jennifer Hamilton Clark, Ft. Lauderdale; Erin Curran, Ft. Lauderdale; Melissa D'Ouidio, Lutz; Amy Fanzlaw, Dunnellon; John Thomas Garrigues III, Gainesville; Tracy Gonos, Hollywood; Donnie Griesheimer, Tallahassee; Lanell Griffin, Apopka; Christian Hartman, Tallahassee; Lance Horenbein, Tallahassee; Ann Keegan, Tallahassee; Catherine Cannady King, DeFuniak Springs; Alfred James Lawson III, Tallahassee; Lee Michael Lewis, Woodville; Julie Mangum, Perry; Sharilyn A. Maphis, Tallahassee; Dana Lynn McNeil, Havana; Sindhu Satya, Sarasota; Meredith C. Trammell, Marianna; Mark Williams, Lakeland